

JOINT FISCAL COMMITTEE

Legislative Office Building, Room 210-211

Concord, NH

Friday, February 12, 2016

MEMBERS PRESENT:

Rep. Neal Kurk, Chair

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Mary Jane Wallner

Rep. Dan Eaton

Sen. Jeanie Forrester, V-Chair

Sen. President Chuck Morse

Sen. Jerry Little

Sen. Andy Sanborn

Sen. Lou D'Allesandro

(Convened at 10:03 a.m.)

**(1) Acceptance of Minutes of the January 22, 2016,
Meeting and Further Acceptance of the Corrected
December 18, 2015 Minutes (Page #1 Only)**

CHAIRMAN KURK: Good morning, everyone. I'd like to open the February 12, 2016, meeting of the Fiscal Committee and turn to the first item on our agenda which is the acceptance of the minutes of January 22nd, 2016.

****** REP. WEYLER: Move approval.

REP. OBER: Second.

CHAIRMAN KURK: Discussion? There being none, you ready for the question? All those in favor? Opposed?

***** {MOTION ADOPTED}**

REP. WEYLER: We also have to do the 18th, December 18th. We didn't accept those yet.

CHAIRMAN KURK: Okay.

** SEN. D'ALLESANDRO: Move approval.

REP. WEYLER: And they have been corrected.

CHAIRMAN KURK: Thank you. The motion is to accept the minutes of February -- of December --

REP. WEYLER: December 18th.

CHAIRMAN KURK: December 18th. Moved and seconded.

REP. WEYLER: Who was the second?

SEN. LITTLE: Second.

REP. WEYLER: Senator Little.

CHAIRMAN KURK: He's getting in his last opportunities to act on Fiscal Committee.

REP. OBER: Accept as amended; correct, Mr. Chair?

REP. WEYLER: As amended.

CHAIRMAN KURK: As amended. Discussion? There being none, are you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and those minutes are corrected as adopted.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN KURK: We turn now to items under Old Business. There are -- under Tab (2) (B) there are four items which we postponed from the December 18th meeting. Are there any -- is there anyone who would like to bring up any of those items for discussion? These were reports.

JOINT FISCAL COMMITTEE

February 12, 2016

REP. OBER: I have a question on 280.

CHAIRMAN KURK: On 280?

REP. OBER: Yes, sir.

CHAIRMAN KURK: Questions on anything else? Okay. Then we'll proceed to Fiscal 15-280 from the Department of Administrative Services, a report regarding the self-funded health benefits program from July 1st through October 31st, 2015, and welcome the Commissioner and her staff to the table. Good morning, folks.

VICKI QUIRAM, Commissioner, Department of Administrative Services: Good morning.

REP. OBER: May I ask a question?

CHAIRMAN KURK: Representative Ober, you're recognized for a question; but would you folks please identify yourself first.

MS. QUIRAM: Good morning, Chair, Members of the Committee. I'm Vicki Quiram with the Department of Administrative Services, and with me I have Cathy Keene and Sarah Trask, also of Administrative Services.

CHAIRMAN KURK: Thank you. Representative Ober is recognized for a question.

REP. OBER: Thank you, Mr. Chairman. Commissioner and Director, you have all three been working with Division I on retiree health. This Committee took several steps after several meetings starting in August on changes to the retiree health, and we just learned in Division I that those steps will not fully fund retiree health for the rest of the biennium. And I would like you to speak to that 'cause I know this item was about retiree health so that the entire Fiscal Committee can hear what we have been hearing in Division I.

JOINT FISCAL COMMITTEE

February 12, 2016

CATHERINE KEANE, Manager, Division of Risk and Benefits Management, Department of Administrative Services: At this point in time for this biennium, we are projecting a \$1 million deficit in our retiree health budget. What we've also discussed with the Division I is that as we look ahead to the next biennium, we know that our deficit is going to be even deeper because the management of this biennium's expenses for retiree health includes the surplus money which is one-time money. So when we use that in this biennium, when we move into the next biennium we won't have that surplus, that surplus to use to plug the hole. And so that number was 5.8 million. So as we progress into the next biennium, we have the million dollar deficit that we're projecting for this biennium, plus the 5.8 million in surplus so be 6.8 million rounding up to 7 million.

REP. OBER: Thank you.

CHAIRMAN KURK: Follow-up on that. Could you tell us when the \$1 million shortfall will kick in?

MS. KEANE: We project that we will run out of money in June of 20 --

SARAH TRASK, Administrator, Division of Risk and Benefits Management, Department of Administrative Services: Seventeen.

MS. KEANE: -- 17.

CHAIRMAN KURK: Could you not make up for that by adjusting your working rates that would go into effect on December 1st, 2017?

MS. KEANE: We -- we adjust working rates generally on an annual basis. And we will adjust working rates, but we are limited by our budget. So what we have also discussed with Division I is that we anticipate this summer that we'll be back working with the Fiscal Committee to address the retiree health deficit that we project for Calendar Year 17, but really it's the end of Fiscal 17 and the beginning of '18. What's often confusing when we talk about health care for us is that our plan

JOINT FISCAL COMMITTEE

February 12, 2016

year runs on a Calendar Year and Fiscal Years run -- is it June -- July to June, sorry. So I anticipate that we'll go through this legislative session and see how the legislation ends up passing or not passing and being back this summer to talk about changes in Plan Year 17 that will address the deficit for Fiscal 17 and the projected deficit for the next biennium.

CHAIRMAN KURK: I'm sorry, but I'm not understanding why the working rate adjustment that would go into effect on January 1st, '17, won't solve this problem?

MS. KEANE: Because you have to make plan design changes or premium contribution changes that are reflected in the working rates. So under the law today we, the Department of Administrative Services, have no authority to simply change the plan design, for example, to come up with a working rate that would allow us to live within the budget. If we have to, if we have to make changes to the plan in order to realize savings, we have to come back to Fiscal and present those options to Fiscal for approval.

MS. TRASK: Yeah, so the rate is limited by the budget. The projections for the million dollars are assuming the Calendar 17 working rates as they are. If we make plan changes, it will bring those rates down and then we can live within the budget. Right now the deficit is because of the budgeted numbers.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: I'm on another item.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you, Cathy and Commissioner, for coming in. Does that \$1 million shortfall that you're talking about or that deficit, does that include the funds that we were going to take from energy savings to apply to that or are we using any of that?

JOINT FISCAL COMMITTEE

February 12, 2016

MS. QUIRAM: We do not have plans to use that money at this time. That is a decision, certainly, that we could make as the time gets closer to look and see what, you know, is there additional money that's available in our existing budget to make a change like that. We have some savings in the electrical line item that we do know we are going to have as far as how much that is General Funds and how much actually gets spoken for for different areas that we have to make a determination of where would we put this money and would this go toward retiree health care? Are there other issues that are coming up in the budget? That's something, certainly, we would have to discuss and decide. And, also, I think we are watching this budget, and we are watching it closely as we move towards the additional changes that need to be made in the health care plans, as we're dealing with all the other health care agencies in talking to them about what's out there, we're talking to other states about what they're doing. So that hopefully in our next biennium we can start moving towards different -- making some changes and different options. But at the same time we're looking at different options, we're also thinking about -- we are also watching very carefully this year. The changes that you already made to the health care plan certainly filled the hole, most of the holes that we were in. We are -- we are close this year. And we are hopeful that maybe, you know, we don't know if it's going to be a million dollars or \$800,000 or \$1.2 million. But we are watching it very carefully as we move along and that would be an option.

CHAIRMAN KURK: Further question.

SEN. FORRESTER: No.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Good morning. My recollection is that the problem was due entirely to increasing pharmacy trend; is that correct? And is that still the situation and is this new estimate that the patch that we did earlier, that we did last year is still going to be short, is that due to an updated pharmacy trend, and might we expect

JOINT FISCAL COMMITTEE

February 12, 2016

another one later on down the road that makes this hole even deeper?

MS. QUIRAM: I think the actual -- the way we started the whole discussion as you will recall is, is that the budget was underfunded from the very beginning. And so we were already in a deficit when we started the Fiscal Year, this Fiscal Year that we're in right now. And so that was the first issue. And then we did have an increasing pharmacy trend that also increased that deficit from the five -- I think it was 5.5 million went to \$10.6 million deficit. So there were those two pieces of the deficit and there was Federal subsidy that we lost. That's right. There were three -- there was a Federal subsidy reduction. So there were three pieces of the deficit problem.

That deficit at that time we talked about was a 10.6 deficit. The changes that were made in this Committee were actually a little bit less than what we needed to fill that hole and that's where this million dollars came in. It's not that our projections have changed drastically. Our surplus has gone down on a little bit. As we told you we were going to continue to be spending some of the surplus as we moved through time. So the surplus has gone down a little bit and also the changes that were made did not really step up to the entire deficit that was in the budget for this biennium.

SEN. LITTLE: Thank you.

CHAIRMAN KURK: Representative Ober has a question.

REP. OBER: Thank you, Mr. Chairman. And, Commissioner, thank you. You were not Commissioner when the budget came to us, and it came to us in Division I. It was already underfunded in the Governor's Budget by \$5 million. You are correct that that was done and then the rest of it has grown.

I have two follow-up questions. I think effective February 1st there was a slight change in compound drugs and how that's been handled in the plan and could you address that for us?

JOINT FISCAL COMMITTEE

February 12, 2016

MS. QUIRAM: Yes.

MS. KEANE: We did make a change with our vendor, Express Scripts, to no longer cover compound medications. And for -- I'm working off of memory. So I'm thinking that for retirees that was about a \$100,000 a month which on a monthly basis doesn't sound like a lot of savings, but it stops the bleeding for compound meds.

REP. OBER: And my next question, and I think you may have already answered it, is how much will that save that might help us so we can fund June of 2017. I don't think anybody on this Committee wants to see retiree health care come to a screeching halt at the end of May. So is that going to help with that million dollars, Cathy, or is that -- have you -- have you really accounted for that when you give us a million dollars?

MS. KEANE: It's factored into our current projection.

REP. OBER: Okay. Thank you very much.

CHAIRMAN KURK: Further questions? Thank you very much.

REP. WEYLER: A different item while still at the table.

CHAIRMAN KURK: Sure, which item is that?

REP. WEYLER: 279.

CHAIRMAN KURK: 279, Administrative Services, the Annual Report of all light duty trucks whose mileage is at or below the break-even mileage requirement during Fiscal Year 2015.

REP. WEYLER: Thank you. Thank you, Mr. Chairman. I enjoy seeing these reports and the fact we are staying on top of this; but what I miss is the methodology, how we determined the break-even mileage. And as much as I spent looking through this report, I never even saw what the break-even mileage is.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. QUIRAM: Thank you, Representative Weyler, and I actually talked to Tara this morning and she brought copies because I remembered on the previous item that was similar to this on our passenger vehicles that you had asked a question. This item had -- we prepared it since this was tabled and brought backup. We didn't get a chance to add that to the package, but we do have copies if you would like copies of how that's calculated.

REP. WEYLER: Thank you very much. Thank you for bringing those.

MS. QUIRAM: And while --

REP. WEYLER: That's it. That was my only question. I'll look at it later. That has a methodology as well as the numbers.

TARA MERRIFIELD, Administrator, Bureau of Plant and Property Management, Department of Administrative Services: The copy I brought is for the current 16-17 biennium.

MS. QUIRAM: And if you'd like you put -- it's in very simple English which, you know, I went through these numbers, and numbers, and numbers, and said, okay, how do I explain in English. And it's basically the calculation is we have to have the total cost of buying and maintaining a vehicle, divided by the miles driven so it's cost per mile of your vehicle needs to be less than the IRS rate of .575 or, you know, a little over 50-cents a mile in order for it to make sense for us to have cars in the State versus paying people the IRS mileage for their car.

REP. WEYLER: Just a follow-up.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: Thank you. One of the things that was around for years, and I heard the same thing for ten years that I knew it was changing during those ten years, oh, it only cost 22-cents a mile to operate a State vehicle, which I knew was

JOINT FISCAL COMMITTEE

February 12, 2016

obviously not keeping up with inflation. We still have to take into account, we still need insure these vehicles. We still put fuel in them. I want to make sure we are putting all those figures in before we come up with a break-even that you're actually on the real cost.

MS. QUIRAM: We are. It includes all of those figures and it is about 37.

MS. MERRIFIELD: Yes. With all those fix and variable costs it's 37-cents per mile.

REP. WEYLER: That makes more sense than the 22-cents that was around for ten years.

MS. MERRIFIELD: They may have been referencing the operating costs, not including the fixed costs. The operating cost hovers around 20 to 22-cents.

REP. WEYLER: Thank you very much. Appreciate you bringing the extra pieces.

CHAIRMAN KURK: Thank you. Further questions? Thank you again. No one wishing to bring up Items 15-276 or 15-283, we'll now move on to --

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I read 15-276 and I have no questions on it, but I question why we would continue it in the book month after month?

CHAIRMAN KURK: It's always nice to see what proportion of the total activity that the University undertakes the State is supporting. You don't have to read it, Representative Ober.

REP. OBER: I did. I reread it.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: No, I understand that. But if you don't want to see it. But for the rest of us -- moving on.

CONSENT CALENDAR

(3) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

CHAIRMAN KURK: Consent Calendar, Fiscal -- this is item number (3) on our agenda. There are questions from House Members on each one of these so we'll deal with them not as a group but individually.

We'll turn now to Fiscal 16-019, a request from the Department -- the Department of Environmental Services for authorization to accept and expend \$163,209 in Federal funds through June 30th, 2017. Is there someone here from the Department who can answer questions? Good morning, Ms. Carlson.

SUSAN CARLSON, Chief Operations Officer, Department of Environmental Services: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Susan Carlson with the Department of Environmental Services.

CHAIRMAN KURK: I have a question on Page 3. The sentence reads these funds will be used to supplant funding of the following position which is currently budgeted. What kind of funds are currently budgeted for position 42193 and what will happen to those funds if you're using this money to supplant?

MS. CARLSON: This position is funded out of one of our existing fee accounts, one of our fee accounts.

CHAIRMAN KURK: Hm-hum.

MS. CARLSON: And those monies will roll forward into the next Fiscal Year if we do not spend them this year.

CHAIRMAN KURK: Could you tell us what that fee account is?

JOINT FISCAL COMMITTEE

February 12, 2016

MS. CARLSON: The wetlands fee account.

CHAIRMAN KURK: What does that money get used for and how much does the balance normally contain as it rolls over?

MS. CARLSON: It varies from year to year, depending on the volume of the wetlands permits that we -- that we receive. Currently, because we just received a major wetlands permit we have approximately -- and I'm going from memory 'cause I don't have the form in front of me -- a little over \$900,000.

CHAIRMAN KURK: So why are you supplanting?

MS. CARLSON: Well, we received a Federal grant, and this grant is being used for this to do this sampling and monitoring of fringing and emergent wetland. And so what we're doing is we are using Federal grant money to pay for the staff's time to do it rather than having the fee program pay for their time because they're not working on permits. They're working on this grant.

CHAIRMAN KURK: This is unusual. Almost all of the programs we see say you can't use this to supplant existing funds.

MS. CARLSON: This -- this language that we're using was language we had -- that the Department of Administrative Services had developed for us to use in all of our Federal grant programs when we come to add money. Essentially, what we are doing is we are taking this position's cost based on their time charged and charging it off to the Federal grant rather than charging it off to the fee account. We are not supplanting money being used -- General Funds being used to match the Federal program. What we are doing is simply charging the Federal program as we are allowed to charge it for this individual's time. It's not in violation of the Federal regulations.

CHAIRMAN KURK: I'm sure it's not. I'm just concerned that we now have more money in the fee account and maybe the fees should be lowered.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. CARLSON: That's -- it's a statutory fee, so.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Am I correct that the abundance of money you have in the fee account right now is due to a one-time project going on in the State of New Hampshire that's very significant and would not be the norm of every year to have that abundance?

MS. CARLSON: Yes, that's absolutely correct.

REP. EATON: EverSource.

CHAIRMAN KURK: Thank you. Senator Forrester.

SEN. FORRESTER: Thank you for coming in. I was reading the grant agreement and I had a question about these Floristic Quality Assessment scores and the development of criteria to assess wetland condition. And my question is is that going to create kind of a hurdle or rule in the future that's going to be more burdensome for businesses?

MS. CARLSON: No. Essentially what this is, this allows us to sample the fringing. And you'll have to forgive me, I'm the accountant, not the biologist in this. There's a category of wetland called fringing and emergent wetlands and what this grant does is allows us to do extensive sampling on these types of wetlands to using the State of Maine protocol that's been developed in order to determine the healthiness of those fringing and emergent wetlands. And then this information is going to be available for the communities to use out on our website so that they can manage and react to changing wetland conditions. It's a tool that we're developing so that the wetlands can be better monitored.

SEN. FORRESTER: Okay. Thank you.

CHAIRMAN KURK: Representative Ober is recognized for a motion.

JOINT FISCAL COMMITTEE

February 12, 2016

** REP. OBER: Move to approve.

CHAIRMAN KURK: Second by --

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 16-022 from the Department of Safety, a request for authorization to accept and expend \$329,164 in other funds through September 15, 2016. Is there someone from the Department who might answer questions? Good morning.

STEVEN LAVOIE, Director, Division of Administration, Department of Safety: Good morning. My name is Steve Lavoie. I'm the Director of Administrator at the Department of Safety, and with me is Kyra Leonard, the administrator of our business office.

CHAIRMAN KURK: Thank you for coming. Could you tell us the hourly rate that will be paid to the State Police who are hired for this project?

KYRA LEONARD, Administrator, Division of Administration, Department of Safety: So it's going to be paid at a detail rate. So that means it's going to be \$51.89 per hour and then the associated benefits.

CHAIRMAN KURK: And how much of that goes to the officer?

MS. LEONARD: The 51.89 that goes to the officer.

CHAIRMAN KURK: And what did you mean by benefits?

JOINT FISCAL COMMITTEE

February 12, 2016

MS. LEONARD: So benefits would be Medicare. They don't pay Social Security. And then retirement.

CHAIRMAN KURK: That's also paid out of this grant?

MS. LEONARD: Yes, out of the benefits line.

CHAIRMAN KURK: And who -- which of the officers receives this money? In other words, who is eligible for this, junior officers or senior officers very near retirement?

MS. LEONARD: That would be more of a question for the Colonel. So we can look into that information and get back to you.

CHAIRMAN KURK: Could you get back to us perhaps with the last year because I think this is an ongoing kind of program with the rank, number of hours of service these officers receive for all of the money that was spent on officers so that we know the rank of the officers and how many years of service the officer had at the time this was given.

SEN. FORRESTER: Senator Little has a question.

CHAIRMAN KURK: Who has? Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. I have a question about capacity. This week in the Senate we passed a piece of legislation that will provide a great deal of additional funding for Trooper overtime to be involved in drug interdiction efforts. And we see this item providing more money for more overtime for DWI combating efforts. And so the question is do we have enough Troopers to actually do the regular day shift work and then do all of the overtime that's envisioned in this proposal and the Granite Hammer proposal at the same time to do all three of those things, normal Trooper working, overtime for Granite Hammer and overtime for this DWI effort?

MR. LAVOIE: Again, at this point I wouldn't want to speculate on our capacity. We'd have to get in touch with State

JOINT FISCAL COMMITTEE

February 12, 2016

Police and make sure that we can share that information with them and share that concern.

CHAIRMAN KURK: Would there be a problem if we delayed acting on this for a month till we got that information?

MR. LAVOIE: To my knowledge, no.

CHAIRMAN KURK: So we could table this and there would be no untoward consequences and deal -- and take it up at our next meeting when the answers to the questions are given?

MR. LAVOIE: The only potential impact would be based on the date of the grant itself.

CHAIRMAN KURK: I'm not following.

MR. LAVOIE: So the funds are only available for a certain period of time. So delay in approval would provide us with a shorter window in which to use them.

REP. OBER: What is that period of time?

REP. EATON: Get somebody over before we adjourn.

MS. LEONARD: The grant ends September 2016. So it would give us a shorter time. A month may not make a big difference.

REP. EATON: Kyra, you can drop a dime and get somebody over here in the next 15, 20 minutes.

CHAIRMAN KURK: We'll take this up later. Thank you. So without objection, we'll skip over this item and unless there are more questions. And one of you will be calling the Colonel?

MS. LEONARD: Yes.

CHAIRMAN KURK: Thank you. We proceed now to Fiscal 16-026, a request from the Department of Environmental Services for authorization to budget and expend prior year carry forward

JOINT FISCAL COMMITTEE

February 12, 2016

other funds in the amount of \$75 million. Is there someone from the Department who can answer questions on that? Good morning, again, Miss Carlson.

MS. CARLSON: Good morning.

CHAIRMAN KURK: The obvious question for me is you're talking about a new program, a new loan of 75 million. Will that be subject to a \$1.5 million, 2% administrative fee?

MS. CARLSON: Hum -- the \$75 million loan when it goes into repayment will be charged an interest rate that will include what you're referring to as the administrative fee, yes.

CHAIRMAN KURK: Say that again? An interest rate that includes a fee? I don't understand that.

MS. CARLSON: We set the interest rates on an annual basis, and included -- it's part of that interest rate. There's a portion of the interest rate is the administrative fee.

CHAIRMAN KURK: If the interest rate is 1% and the fee is 2% you're going to charge them 3%?

MS. CARLSON: No. If the interest rate is set at 1% then we charge 1%. If the interest rate is charged at 4% we charge 4%, and then the administrative fee comes out as a portion of that. Confusing?

REP. OBER: Very.

MS. CARLSON: Yes.

CHAIRMAN KURK: So \$75 million, the interest rate is 10%. You're going to collect \$7.5 million in interest. Of that \$7.5 million in interest, you're going to take 2% or a million and a half dollars and put that into the --

MS. CARLSON: Administrative fee.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: -- administrative fund and take the other 8% and do what with that? That goes back to the Revolving Fund?

MS. CARLSON: Yes.

CHAIRMAN KURK: I see. So this administrative fund is likely to grow considerably or not?

MS. CARLSON: Well, the way this works is the loan will go out in due order. It will probably take the community about four years to spend these funds, and then once it goes into repayment, then they will pay us back over 20 years and that fee is charged with each Debt Service payment.

CHAIRMAN KURK: So, in other words, rather than one chunk of 1.5 million it will be spread over 20 years.

MS. CARLSON: Yes.

CHAIRMAN KURK: As the payments are made.

MS. CARLSON: Yeah.

CHAIRMAN KURK: Starting when the loan is in repayment.

MS. CARLSON: Right, which we're anticipating which is four years from now.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. Susan, it probably isn't a question for you. It's probably somebody in plan administration. Of these loans, what part do we have to provide a match for? It's Federal money; right?

MS. CARLSON: No. This particular loan is not Federal money. This loan is coming out of our repayment fund.

REP. OBER: So we, as a state, don't then have an equal match to go forward with this.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. CARLSON: Not this loan. If we were loaning out of our Federal pool of loan funds it's an 80/20 split.

REP. OBER: How do you fund that? Well, it's not applicable. Never mind. I'll ask you later off-line. This is not a question for this item. Sorry, Mr. Chairman.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. How do you set the interest rate?

MS. CARLSON: The interest rate is based on a Treasury GO bond rate and it's generally set in the fall.

CHAIRMAN KURK: Could you share with us what the rate is now?

MS. CARLSON: The rate is on a 20-year loan is 2.552%.

CHAIRMAN KURK: So 2.552. Let's call it 2.5. Two percent of that will go into the administrative account and .5 will go to increase the revolving loan.

MS. CARLSON: Right.

CHAIRMAN KURK: Thank you. Senator Little.

SEN. LITTLE: So, potentially, there's a scenario where the return on the loan doesn't satisfy your administrative fee and, therefore, you're going to be short on that line; but you're also not going to be replenishing the Revolving Fund, depending upon current rates.

MS. CARLSON: Right. Well, all principle goes back into the repayment fund. It's just the interest.

SEN. LITTLE: The interest portion would not go to --

JOINT FISCAL COMMITTEE

February 12, 2016

MS. CARLSON: And we have the ability if the balance in the repayment fund increases we can move that balance back into the repayment fund.

SEN. LITTLE: Thank you. One more. Does interest accrue only after repayment starts or does interest accrue -- you're holding \$75 million to the municipality. Do they start to accrue interest immediately or after five years?

MS. CARLSON: They accrue a 1% construction in progress interest rate as they draw funds down. All of that goes into the repayment fund.

SEN. LITTLE: Thank you.

CHAIRMAN KURK: Are you obligated by Federal Law to charge interest? Because these are our communities and be nice if it were an interest free loan.

MS. CARLSON: I believe we are, but I'd like to verify that.

CHAIRMAN KURK: Thank you. Chair recognizes Representative Ober for a motion.

****** REP. OBER: Move to accept.

CHAIRMAN KURK: Seconded by?

SEN. LITTLE: Second.

CHAIRMAN KURK: By Senator Little. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

MS. CARLSON: Thank you.

CHAIRMAN KURK: Thank you.

***** {MOTION ADOPTED}**

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Would you find out for us about the requirement of charging interest?

MS. CARLSON: For Tuesday? Yes.

(4) RSA 14:30-a, VI, Fiscal Committee Approval Required For Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source and RSA 124:15 Positions Authorized:

CHAIRMAN KURK: We now turn to Item (4) on our agenda. Again, there are questions on each of these so we'll take them up individually.

Fiscal 16-020, request from the Department of Health and Human Services for authorization to accept and expend \$678,574 in Federal funds through June 30th, 2017, and subject to the approval of that request, authorization to establish two full-time temporary positions through the same date, consisting of a Public Health Nurse Coordinator and a public -- and Program Assistant II. Is there -- ha.

JEFF MEYERS, Commissioner, Department of Health and Human Services: Good morning, Mr. Chairman.

CHAIRMAN KURK: Good morning, Mr. Commissioner. Congratulations and welcome to your first Fiscal Committee meeting as Commissioner. May you have many successful appearances before us.

MR. MEYERS: I look forward to that, Mr. Chair.

REP. OBER: You sure we shouldn't say condolences?

MR. MEYERS: No, this is a privilege for me to serve in this position, and I look forward to it whole-heartedly.

With me this morning is the Interim Director of Public Health, Marcella Bobinsky.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Question that I have about this first program is a very simple one. You say that it wasn't in the budget because you didn't receive it till later; but when did you apply for it and --

MARCELLA BOBINSKY, Acting Director, Division of Public Health Services, Department of Health and Human Services: You want me to --

MR. MEYERS: Yeah, yeah.

CHAIRMAN KURK: The question is if you applied for it during the budget process, why wasn't it in the budget?

MR. MEYERS: Let me start out at the outset. This item and the item that succeeds it fell through the cracks and they shouldn't have. And I need to work, obviously, with the Department -- across the Department to ensure that items that belong in the budget are in the budget.

Having said that, and you have my commitment that I'm going to be doing that, the dates for these -- the award on 16-020, the item that we are on right now, was made on July 24th of '15. You're correct, it was applied for prior to that time, and it should have been in the budget.

The next item was actually a little bit earlier. So, as I said, I think for reasons that I don't want to spend a lot of time on dwelling on this morning, I think this is on us. I think we need to do a better job in identifying this so that we can include them in the budget. That's my commitment going forward. Having said that, I'd like to ask Director Bobinsky to talk about the item more substantively and answer any questions you have on it.

CHAIRMAN KURK: I didn't have any questions on the substance of the item. Are there any other questions from Members?

****** REP. OBER: Move to approve.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Second? Is there a second? Second by Senator Little. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: I don't have any questions on Item 16-021. Are there any questions from Members on that one?

****** REP. OBER: Move to approve.

CHAIRMAN KURK: Motion is to approve Fiscal 16-021.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: Thank you both very much.

MS. BOBINSKY: Thank you.

MR. MEYERS: Thank you.

CHAIRMAN KURK: Nice how quickly things go when we are all on the same wavelength.

MR. MEYERS: Yes, Mr. Chair.

CHAIRMAN KURK: Fiscal 16-023, request from the Department of Safety for authorization to accept and expend \$109,960 in other funds through September 30th, '16, and authorization to establish Class 046 consultant positions through the same date. Is there someone here from the Department to answer a question? Ha, good morning again.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. LAVOIE: Good morning, again.

CHAIRMAN KURK: It's a very simple question. This is an ongoing program. Why wasn't it in the budget?

MR. LAVOIE: The -- this aspect of the program is not in the budget. The crash management -- crash record management system interface is a new component as far as interfacing with the J-One Program. So the interface itself was not able to be completed internally. We needed to go external to gain the expertise to connect those two systems.

CHAIRMAN KURK: But the whole J-One system, as well as the interface, has long been part of the budget. So if you folks determined that consultants were necessary, I know the grant was later but you must have applied for it earlier, and I don't understand why it wasn't in the budget.

MS. LEONARD: So we do budget a good majority of the J-One Project. But as the Director pointed out, this piece wasn't foreseen at the time, and then that's why we were able to procure funds from.

CHAIRMAN KURK: When did you apply for the funds?

MS. LEONARD: I would have to find that information out.

CHAIRMAN KURK: The point is, if you're applying for something or you know you're going to apply for something during the budget process, it should be in the budget. And you can very readily say as we do in many cases, if we don't get the funds for this, then we don't have the authority to expend. But that gives the Legislature a more complete picture of what's happening and allows us to make better decisions. Thank you.

****** REP. EATON: Move approval.

CHAIRMAN KURK: Representative Eaton moves approval --

SEN. D'ALLESANDRO: Second.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: -- of 16-023, seconded by Senator D'Allesandro. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it the item is approved. Thank you.

***** {MOTION ADOPTED}**

(5) RSA 604-A:1-b Additional Funding:

CHAIRMAN KURK: We turn now to Tab (5), Fiscal 16-028, request from the Judicial Council for authorization to receive an additional appropriation from funds not otherwise appropriated in the amount of \$430,000 in General Funds through June 30th, 2016. Are there questions that anyone has on this?

SEN. LITTLE: I do, Mr. Chairman.

REP. KURK: Is there somebody from the Judicial Council here?

CHAIRMAN KURK: Good morning, Mr. Keating.

CHRISTOPHER KEATING, Executive Director, Judicial Council: Good morning, Mr. Chairman.

CHAIRMAN KURK: Senator Little has some questions about this and thank you for being here to answer them. Senator Little.

SEN. LITTLE: Thank you very much, Mr. Chairman. Good morning.

MR. KEATING: Good morning.

SEN. LITTLE: My question has to do with, I think, the process. It's a very, very large number we are being asked to transfer and I'm unclear as to who has the jurisdiction and authority to make these expenses? Seems to me like we recognize that we have prosecutions that have to do with homicides and

JOINT FISCAL COMMITTEE

February 12, 2016

heroin crisis and that sort of thing. So we have increased expenses, but a lot of it has to do with the fact that we have decided to use private attorneys rather than public defenders for our own resources. So who is making those decisions to expend those funds and do we really have any option as to whether or not we approve this? You decide or somebody decided to make those -- have those expenses and is this sort of perfunctory we are here to discuss this?

MR. KEATING: That sounded like a dozen questions, Senator. So --

SEN. LITTLE: Eight, I think.

MR. KEATING: So, for the record, my name is Chris Keating. I'm the Director of the New Hampshire Judicial Council.

Great questions. We -- so this request has two components. It has the criminal request and the abuse and neglect request. Regarding the request for funds to augment the criminal side, we try to pack all the cases into the Public Defender Program, because the Public Defender Program is a fixed cost. If they handle one case, they cost -- their cost per case is \$18 million. If it's 20,000 cases, then their cost per case goes down. So we really try to make the Public Defender Program the keystone of the system. But they can't take every case because of conflicts of interest that they have to avoid under the rules of professional conduct. And this year we've just seen a lot of very serious homicide cases go to private attorneys, because the Public Defender couldn't handle it. The Cold Case Unit, for example, at the Department of Justice is prosecuting two men, Mr. Barnaby and Mr. Caplin, in the Hillsborough County Superior Court South. Those are both in the hands of private attorneys because of conflicts with the Public Defender Program. And so, unfortunately, right now we have ten cases that are in the hands of private counsel; and, unfortunately, the Judicial Council has no control over the bills that we pay.

If someone in the criminal side is eligible for the appointment of counsel under the Constitution, then we have

JOINT FISCAL COMMITTEE

February 12, 2016

to -- we have to provide those funds. The appointment process is done by the courts. An individual court will be presented with an application for the appointment of counsel. If the court approves that, then the private attorney who submit invoices, those invoices are reviewed and approved by the trial court judges. And then these invoices are sent to the Judicial Council for payment. So we're really just paying bills that we receive from the courts. We watch them, and we monitor them, and we oversee to the extent we can the people who are appointed. And we work with the Public Defender Program to make sure that they handle absolutely every single case that they can. And we -- but, unfortunately, you know, we're paying bills that we get from the courts after review and approval by the trial court judges.

In the abuse and neglect world, the State eliminated the statutory right to the assistance of counsel for parents in abuse and neglect matters in 2011. Before that, the Judicial Council was paying about \$1.2 million a year to pay for the representation of parents in those child protection matters. When the statutory right, it's not a Constitutional right, when the statutory right was eliminated, we went down almost to zero. We had some cases that were in the system. And so we -- in Fiscal Year '13, we paid out only \$9,000 for the representation of parents in abuse and neglect cases. The next year would have probably been zero, but the Legislature restored the statutory right to the assistance of counsel in these cases. And so ever since Fiscal Year 14 when that right was restored, the Judicial Council has seen expenditures of \$311,000 in Fiscal Year 14, \$542,000 in Fiscal 15, and then we're projecting \$830,000 in expenditures for Fiscal Year 16. So it was the restoration of the statutory right to the assistance of counsel and the progress of those cases through the system and it's the same system. People apply for the appointment of counsel. Judges approve those requests, and judges approve the invoices of the private attorneys who are appointed to do that work.

I've been in consultation with Chief Judge Kelly of the Circuit Court to try to imagine a system more like the Public Defender Program for these abuse and neglect cases and that's

JOINT FISCAL COMMITTEE

February 12, 2016

something that the Judicial Council is looking at for the next biennium.

CHAIRMAN KURK: Mr. Keating, don't you have contract attorneys?

MR. KEATING: I have contract attorneys -- I was going to say Your Honor. Just my habit, force of habit. Mr. Chairman, we have contract attorneys, but they don't handle the homicide cases because it's very difficult to contract for a homicide case because the expenditures are so unpredictable.

CHAIRMAN KURK: But the abuse and neglect cases?

MR. KEATING: There are fee caps in the abuse and neglect world.

CHAIRMAN KURK: Imposed by you or by the courts?

MR. KEATING: By Supreme Court rule. And I will say this about the courts. They were -- well, I won't be too subjective, but there was not careful monitoring of requests to exceed those fee caps back in Fiscal Year 2011 and before. Now the Circuit Court instituted a procedure whereby if a private attorney wants to exceed the fee cap in one of these cases, they have to submit a request to the trial court. If the trial court -- and it has to be before the fee cap is exceeded. If the trial court approves that request, the trial judge has to send that approval to the Chief Judge of the Circuit Court for that Judge's secondary approval. So they have really instituted a system to ridered on exceeding the fee caps. So what we have in place now, I think, is a much better system than we had before when some of these costs were runaway.

CHAIRMAN KURK: Another question. You have -- we have a statutory authority to basically spend surplus if there is any to meet this request. Did you make this request during the budget process and we shorted you or is this something that was totally unexpected by you at the time you went through the budget process?

JOINT FISCAL COMMITTEE

February 12, 2016

MR. KEATING: The latter, Mr. Chairman. The latter. This is not one of those instances when -- when the Judicial Council budget was cut by a certain amount. This is the representation that I made based on my forecasting which didn't foresee the arrest and indictment of two men from Canada, the multiple co-defendant murders that required the assignment of counsel or the factors that have driven the increase in the number of child protection cases in the system.

CHAIRMAN KURK: Thank you. Further questions?

SEN. LITTLE: I'm all set. Thank you very much. Thank you, Mr. Keating.

MR. KEATING: Yes, sir.

CHAIRMAN KURK: There a motion?

** SEN. D'ALLESANDRO: Move the item

SEN. LITTLE: Second.

CHAIRMAN KURK: Senator D'Allesandro moves, seconded by Senator Little that item Fiscal 16-028 be approved. Further discussion or questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you, Mr. Keating.

MR. KEATING: Thank you, sir.

*** {MOTION ADOPTED}

(6) Chapter 276:143, Laws of 2015, Department of Health And Human Services; Transfer Among Accounts and RSA 14:30-a, IV, Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 From any Non-State Source:

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: We turn now to Tab 6, Fiscal 16-029, a request from the Department of Health and Human Services for authorization to transfer \$751,671 in General Funds and increase related Federal revenues in the amount of \$1,557,555 and increase related other revenues in the amount of \$61,714 for June 30th, 2016. Is there someone from the Department who can answer questions on this?

MR. MEYERS: Good morning.

CHAIRMAN KURK: Good morning, Commissioner. Thank you for taking these questions.

MR. MEYERS: Of course.

CHAIRMAN KURK: Usually when we get a program like this, your Department especially goes into great deal -- great deal of descriptive narrative covering what is being done. And I must say, I didn't understand this. Could you explain this briefly?

MR. MEYERS: Okay. We're on 029?

REP. WEYLER: Right.

CHAIRMAN KURK: Yes.

MR. MEYERS: So the narrative really there's a cover letter which is dated January 28th, and there's a listing of accounts as you can see at the bottom of that letter. And then after the letter there's an attachment. And that attachment is where most of the information appears. I think that may be responsive to your question in terms of identifying what lines the money is coming out of and what lines the money is being transferred into. This was prepared by our CFO. She was going to be here this morning to address questions that might come up and was not feeling well at the last moment and so she's not here. I'm happy to, if there are specific questions that you have that you require answers to before acting on this item, we can take a break and I can try to get those answers.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: It's more of a general --

MR. MEYERS: Okay.

CHAIRMAN KURK: -- question. It doesn't -- was this something that was supposed to be in the budget but wasn't?

MR. MEYERS: No.

CHAIRMAN KURK: Was this something that there was going -- that this is another way to get additional Federal matching money? Are these grant programs?

MR. MEYERS: No. My understanding is, and I'll confirm this, but my understanding is these are internal transfers in order to cover accounts. And if you look, for example --

CHAIRMAN KURK: But it says increase related Federal revenues.

MR. MEYERS: Well, may be matching funds associated with some of the transfers, but I don't believe that's the case with all of them.

CHAIRMAN KURK: Normally, if it's a transfer, the matching revenues go with it. But this talks about transfers and increasing Federal revenues.

MR. MEYERS: Well, on some items. For example, you know, I'm just looking on one item, child abuse prevention. So funding in that particular accounting unit represents costs associated with Child Abuse Prevention. There's a projected deficit in the Current Expense line item due to under budgeting. The deficit will be funded with projected surplus in the Contracts For Program Services in this accounting unit. Source of funds: 100% Federal. So that's -- that's one example of why we are transferring money.

CHAIRMAN KURK: Normally, when there's a transfer the Federal goes with it. This looks like a transfer and as a result

JOINT FISCAL COMMITTEE

February 12, 2016

of the transfer we are getting additional Federal money. That was the reason for the question. Because when you say increased in the amount of 1.5 million, I have no problem with the transfers. It's just a question of is this -- are we doing this to fill holes as we usually do for transfers, or are we doing this because somebody's discovered a new way to get more Federal money?

MR. MEYERS: My understanding, and I will -- we can take a break and I can call the CFO and report back before the meeting is over, is that this is -- we are doing these transfers to cover projected deficits in accounts and it's not motivated by an attempt to collect additional Federal revenue.

CHAIRMAN KURK: Thank you. I have no further questions.

****** REP. OBER: It's annoying, Commissioner, when we read it. I would move to approve.

CHAIRMAN KURK: Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Further questions or discussion? There being none, are you ready for the question? All those in favor of these transfers under Fiscal oh -- 16-029, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

***** {MOTION ADOPTED}**

MR. MEYERS: I hear the Committee's comments and we will work to try to explain in the future in a more direct way.

CHAIRMAN KURK: Thank you. We now turn to Fiscal 16-030, another request from the Department for authorization to transfer \$12,500 in General Funds and increase related Federal revenues in the amount of \$4,000 and no change to related other revenues -- excuse me -- and no change to related other revenues through June 30th, 2016.

JOINT FISCAL COMMITTEE

February 12, 2016

** REP. OBER: Move to approve.

SEN. LITTLE: Second.

CHAIRMAN KURK: Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

We turn to Fiscal 16-031, another request from the Department for authorization to transfer \$347,230 in General Funds and decrease related Federal revenues in the amount of \$74,999 and decrease related other revenues in the amount of \$9,630 through June 30th, 2016. Is there a motion?

** REP. OBER: Move to approve.

CHAIRMAN KURK: Moved by Representative Ober, seconded by Senator Forrester. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

(7) Chapter 276:219, Laws of 2015, Department of Corrections; Transfers:

CHAIRMAN KURK: Tab (7), Fiscal 16-027, a request from the Department of Corrections for authorization to transfer one million nine hundred -- excuse me -- \$1,896,080 in General Funds through June 30th, 2016. Is there someone from the Department who would be able to answer questions?

DOREEN WITTENBERG, Director of Administration, Department of Corrections: Good morning. For the record, my name is Doreen Wittenberg. I'm the Director of Administration for the Department of Corrections.

CHAIRMAN KURK: Good morning.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. WITTENBERG: Good morning.

CHAIRMAN KURK: Very basic question. I understand that the increase in the need for overtime is due to the fact that we were not able to hire -- the Department was not able to fulfill its complement of Corrections officers. What troubles me or what I don't understand is why the excess money now in the account for salaries is not sufficient to fund overtime and you're coming in for additional money?

MS. WITTENBERG: The money and salaries -- well, the money and salaries that we are transferring is basically based on our vacancies that we have currently in our Class 10 funds and Class 60 benefit funds. I'm not -- I'm not 100% clear on your question as to -- hum -- the additional monies in salaries.

CHAIRMAN KURK: Then maybe I've misunderstood this. Are you saying that this is simply a transfer request and no additional money is needed because I read this and you talk about coming back, I think, for additional money at a later date. Yes. Class 18 overtime has a projected Fiscal Year end General Fund shortfall for -- shortfall of \$4,104,018 as of January 22nd, 2016; one million eight hundred ninety thousand and change in the deficit will be resolved by this transfer. The remaining two million two hundred thirteen thousand and change projected will have to be addressed as additional surpluses are identified.

MS. WITTENBERG: Yes.

CHAIRMAN KURK: Is it your -- are you telling us that you will have enough money to hire the additional overtime staff that you need and take that money from the vacancy line in Class 10?

MS. WITTENBERG: Well, we don't hire people for overtime, but we take and as we hire, we will have adequate funding in the positions that are funded to take and hire CO's, medical and such; but because they're coming in at a certain point, the

JOINT FISCAL COMMITTEE

February 12, 2016

funds that we haven't used up to that point is what we use to transfer to cover the overtime.

CHAIRMAN KURK: I'm not making myself clear. I'll try it once more. Will you have enough money in your salary lines to transfer to the overtime lines to cover all of the needs that you're going to have for additional overtime through this biennium?

MS. WITTENBERG: We are hoping to, yes. We're estimating out that we are planning to try to do such.

CHAIRMAN KURK: So you won't need to transfer from other lines into the overtime line but just from the salary lines and benefits, of course.

MS. WITTENBERG: That's not totally correct. We may have to also take from other lines as well.

CHAIRMAN KURK: I wonder if you could supply us with the names -- not the names, excuse me -- the ranks and the years of service of the officers who are receiving this overtime.

MS. WITTENBERG: Hum -- I will definitely take this information back and review it with the Commissioner and then I will get back to you.

CHAIRMAN KURK: The concern is that if you cannot meet the overtime requirements from your existing budget that there may be a skewing of this overtime money going to senior employees who at their overtime rates would be getting much more per hour than junior employees; and, therefore, necessitating transfers from outside these lines.

MS. WITTENBERG: Hm-hum.

CHAIRMAN KURK: Are there other questions? There being none, thank you very much, ma'am.

MS. WITTENBERG: Thank you.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Is there a motion?

** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves.

SEN. LITTLE: Second.

CHAIRMAN KURK: Seconded by Senator Little that this item be approved. Further discussion or questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** **{MOTION ADOPTED}**

CHAIRMAN KURK: We turn now to Fiscal 16-022, a request from the Department of Safety that we previously put aside and welcome Colonel Quinn to answer some questions.

COLONEL ROBERT QUINN, New Hampshire State Police, Department of Safety: Good morning, Mr. Chair. I've brought Captain Matt Shapiro with me as well.

CAPTAIN MATT SHAPIRO, New Hampshire State Police, Department of Safety: Good morning.

COLONEL QUINN: Matt was recently -- ran our Highway Safety Unit and was recently promoted to Captain overseeing Highway Safety. And I believe there were two specific questions that Director Lavoie had said is who would be working these types of grants, these DWI grants. We have two -- two general grants that we use. Some are the roving patrols looking for impaired drivers. Those primarily are taken by the Road Troopers. Could a Sergeant put in for one? Yes. Could a Lieutenant put in for one? Could a Captain. But I will tell you historically it's the Road Troopers that are working these details.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Could you get us that information statistically by rank how many folks are getting how many hours. Take any Fiscal Year you want. '15's finished so that's a good one. So we can actually see that on paper.

COLONEL QUINN: Sure.

CHAIRMAN KURK: That would include their years of service -- their rank, their years of service, the numbers of hours they got, so at the end if we totaled everything up we have the total number of overtime hours under this program, and then we have a breakdown by rank and years of service.

COLONEL QUINN: Sure. That -- I will -- I will start that. It may take some time because I'm not sure what we can pull electronically or what we are going to have to -- what we are going to have to hand pull. So I will try and get an answer through the Director of Administration how long that will take.

The second part to that is the other types of DWI grant dollars that we have are for the checkpoints, the DWI checkpoints or roadblocks and on those we have a Lieutenant that works those. We have a Sergeant that's generally the OIC. So we have somebody in charge. We have the safety officer bringing in the cars into the checkpoint, but then the checkpoints are primarily manned by the Troopers. So I can give you the breakdown of that as well.

CHAIRMAN KURK: That's fine. Thank you.

COLONEL QUINN: Yeah. Matt, do you agree with that?

CAPTAIN SHAPIRO: Yes, I do.

CHAIRMAN KURK: Congratulations, sir, on being promoted.

CAPTAIN SHAPIRO: Thank you. Thank you. I appreciate that.

CHAIRMAN KURK: Senator Little had a question about, which I thought was a more broader policy question, and if I may phrase

JOINT FISCAL COMMITTEE

February 12, 2016

it, it's basically can we do all of the operations, both the opioid operations and the alcohol operations with the Troopers that we have?

COLONEL QUINN: Sure. That's a good question. I will tell you this. I can speak to what we have historically done. So on the Highway Safety side, every year it's quite -- it's quite a challenge for the Lieutenant to get all these details scheduled on the DWI side but we do it. We have seven different Troops out there that have a portion of DWI money, DRE money, drug recognition money. He's expanded the hours on that because the impaired drivers now are during the day at times that are under the influence of drugs. And he's got his roadblocks that we set up so many per Troop. And he's really done a good job at looking at which ones have the right output and we try to move them around. So he does -- does a good job filling those. It's a challenge. It's a lot of work, but we get that filled. And he's done a very good job with that over the last several years. And I would -- I would expect to see the same result in the future on the DWI funds. At times is it hard to fill all of these? Sure, but for the most part they primarily get filled.

On the other initiative that we are looking to expand into, that initiative is rather different as it involves many undercover officers. There will be some high intensity patrol details that are part of that working in known areas trying to intercept, disrupt the flow of drugs. And I think that -- I think that there is tremendous interest in it. We recently had to suspend the details we were doing in Manchester because we, quite honestly, we just didn't have the funds. We didn't have the ability to continue it. So we are waiting on that. And as recently as yesterday had a conversation with Chief Willard and said we are going to just slow this down a bit till I can get some proper funds in place. But I think we will be able to do that, because there will be many more, obviously. And as you know, local departments can put in for those as well.

So we will do what we can. And we will try whatever we do to do it right. But I think that with good management and

JOINT FISCAL COMMITTEE

February 12, 2016

scheduling, we will be able to do -- to do both sides of the house.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: I'm satisfied. Thank you.

** REP. EATON: Move approval.

CHAIRMAN KURK: So you're going to -- you're going to be able to continue your normal patrol duties.

COLONEL QUINN: Yes.

CHAIRMAN KURK: Fill those. You're going to be able to do the DWI, and you're going to be able to do Granite Hammer.

SEN. LITTLE: Granite Hammer.

CHAIRMAN KURK: Granite Hammer simultaneously without increasing the number of personnel.

COLONEL QUINN: Well, as you know, those operations, that is done when they're off-duty. When you say can they fulfill their normal duties, they will, because this is completely separate. This is volunteer. This is extra duty. So do we have people? Do we have enough interest in it? And I think on the Granite Hammer, this is going to expand statewide, so.

CHAIRMAN KURK: So not just highway.

COLONEL QUINN: Oh, no, sir. There will be other drug units, agencies. The Lab is involved in that. The Intelligence and Analysis. So regional drug units. You know, for example, the operations that are ongoing in Manchester, I'll use that for an example. We had Troopers from Troop B and Manchester officers working Thursday, Friday, and Saturday nights. These were extra patrols on overtime. And, you know, you have to have the officers that want to put in and work those shifts, and we have

JOINT FISCAL COMMITTEE

February 12, 2016

had that. We have had no problem filling it. The problem is now we don't have the funds to continue that.

CHAIRMAN KURK: Do you have any procedures or policies that limit the number of hours in a day or a week that an officer can -- Trooper can work regular, plus overtime, plus whatever else?

COLONEL QUINN: We do, sir, and I already previously supplied this, I believe, to Fiscal.

REP. OBER: You sent me something, but it was not a policy that monitored overtime. What they do, and what his policy says is that they check overtime if, and only if, you apply for overtime. But if you're a Trooper who doesn't apply, you're never put into the pool, which is what I was trying to look for so that we don't have spiking of the pension fund. But if you are getting towards retirement, and you apply, then they have a policy and everybody who applies they look at the number of overtime hours you've already worked, and they pick the people who have worked the fewest amount of overtime hours from that application pool, and assign those or let those, I don't know whether assign is the right word. But that's the person who if he or she is available, then is accepted and then they go up the list, and that's what the policy says that the Colonel sent me.

CHAIRMAN KURK: I appreciate that, but my question was a different question. My question is for a single officer, some of them might be willing to work 20 hours a day. My question is do you have a limit on the number of hours per day or per week that an officer can work?

COLONEL QUINN: We do and the policy addresses that. And anyone that puts in for these details, those hours, would count and would go towards how many hours they can work.

CHAIRMAN KURK: What is your maximum?

COLONEL QUINN: You can work ten hours of overtime between two duty days and if you're on a day off you can work up to 16.

JOINT FISCAL COMMITTEE

February 12, 2016

You need eight hours off between shifts. So we have in there a total hours separation hours and this would -- this would -- this would all add in. It would all be aggregate. The only exemptions we have as you might understand is if we have a, you know, a major crime detective that get called out on a homicide and they may have to work extra hours. But it's all watched, Representative Ober is correct on how we apply the construction details, there is a list, and the person with the least amount of hours of construction goes to the top of the list. But if a Trooper is working these hours, and also construction, when they're -- when we look at their payroll, these hours are combined go towards the limit, the maximum. So we do have a policy, sir, that does address that.

CHAIRMAN KURK: Thank you, Colonel. Representative Weyler.

REP. WEYLER: Thank you. Good morning, Colonel. If you have a roadblock, are you looking not only for DWI, but under the influence of drugs? So kind of combines the two and I don't know if there's any conflict if we are looking for drunk driving and you see impaired driving from drugs, just does that give us a problem on collecting on this grant?

COLONEL QUINN: I don't believe it does. And I'm going -- and I should have answered this on the question that Senator Sanborn had raised before. When we put a Trooper out on -- whether the Trooper is on a DWI patrol or a speed enforcement patrol, when they are stopping cars, whatever they come across, you may be on a DWI patrol, stop a car for a headlight and make a large drug seizure. You may be doing a checkpoint and somebody comes through and doesn't have a license and is wanted for a serious felony. So they are -- they are applying all of the laws and as they stop. However, the one thing that is different is the Lieutenant -- the Captain has really increased our DRE numbers. So the DRE is somewhat more specific. Many times the Drug Recognition Experts, you could have a Trooper stop somebody that is impaired, has a 00 say on the PBT and then has to call in a DRE to do the further. And, like I said, I'm very proud of what he's done with the DRE because impaired driving by drugs has really become a big

JOINT FISCAL COMMITTEE

February 12, 2016

problem and one of our mantras has been no DRE call will go unanswered. So Captain, anything you want to add to that?

MS. MATTSON: I think so. I think one thing that you should understand is that these are working details. It's very unlikely that somebody is going to be involved in trying to spike the Retirement System because there's a lot requested in accepting these details. We -- it takes a lot of and been made mention up here before management to make this work. It takes a lot to manage this because you want to have the right personnel who have the right skill set to have a high return on investment for these type of details. For example, with the DWI and the sobriety checkpoint and DRE details that has to be something that's of interest in somebody who's trained in that regard. So you're looking for one -- one certain type of person to be working that to be a good return on investment for highway safety.

You get something slightly different with regard to Operation CYAN or Granite Hammer. Like the Colonel mentioned, you have some NIU personnel, some undercover personnel. It's a different group that you're pulling from. Does that make sense?

CHAIRMAN KURK: It does, and I want to thank you very much and commend you for using words that we too -- we hear here too infrequently, return on investment. I would hope that you would speak with Commissioner Meyers.

COLONEL QUINN: You know, Representative Kurk, just so you know, too, there is a lot of focus that is put on money. But I go out -- I've gone out to every -- I would say almost every sobriety checkpoint that we have had down in the Seacoast area for the last seven years. And I will tell you that at the end of each night, we have got numerous people in custody for impaired driving and other crimes. Recently, he's initiated one up in the Lakes Region to tie into motorcycle week which we have never done before, finding a safe location to do these. The outcome has been a tremendous amount of arrests for impaired driving. And the other things we have done is we have taken these Highway Safety dollars and we are utilizing them strategically and I'll

JOINT FISCAL COMMITTEE

February 12, 2016

use the Weirs for motorcycle week. We used to work right there in the hub and we'd stand around and we would wait for a problem that the problem just wasn't happening, but people were dying on the outskirts. So we started looking at the spikes going into the hub. We are working out there. We are using our Highway Safety Grants on impaired driving, speed enforcement, and it's become significantly safer.

So I trust him with these dollars utilizing the data and applying the best Troopers that are out there and, quite honestly, when you see the ones that are applying, it's the ones that are interested in this and that have a specific skill set and are going out, and I'm very proud of what they have done. So we can look -- and we can look at the numbers on these checkpoints and there are areas where we don't have a high number of arrests, but what we do have is what we've continued to try and message is, it is the messaging. So if we have one and the public takes heed to the notice and does it, then it's good. So they balance out.

CHAIRMAN KURK: Thank you. Further questions? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. I think you've explained two things. First is the overtime. That there's a list. And the person with the least amount of overtime gets up to the top. And that I think addresses the innuendo here that people are trying to get more overtime so they can get a better retirement. That's number one.

Number two, your activities in Manchester have been exceptional, exceptional in combating a very, very serious situation. And I think synergistic relationship that's been created between State Police and the Manchester Police is a real example of law enforcement working together. I think you should be very proud of that, because there's always been a little animus toward the State Police coming in and it's a different jurisdiction. I think you have abated that and done a terrific job of doing that. That makes people a lot more comfortable with the situation.

JOINT FISCAL COMMITTEE

February 12, 2016

COLONEL QUINN: And one follow-up comment, if I might. Just to speak to the dedication. We had a Trooper that is assigned to this MET Team now, Representative Kurk, our Mobile Enforcement Team which are these Troopers that are highly-trained to identify, disrupt, and take these stops, look a little further. You know, all crimes, all hazard, and this particular Trooper had training and then assisted on Granite Hammer. Assisted. And it was a very busy night and on the way home the Trooper stopped somebody for weaving and ended up getting into a very significant struggle on the side of the road. This was all published in the paper, and seized over 25 grams of heroin.

So they're motivated and they're doing it for the right reason. But all of these are in play. But at the end of the day, you have got more Officers, Troopers on the road and whatever they come in contact with. It could be a headlight which leads to a warrant. Could be a headlight which leads to an impaired driver. Could be a headlight or weaving that leads to a significant drug arrest. If they're trained properly, it's going to be very, very beneficial.

CHAIRMAN KURK: Thank you. There being no further questions. Representative Eaton, do you have a question?

****** REP. EATON: Quick statement to go before the motion is I want to thank you, Colonel and Captain, a great informational session and good cross flow of information. I do have a concern and that is I know for a fact on any given day I would trust the Colonel and the Commissioner with my life. I know the Colonel considers every single Trooper under his command a member of family, and he would never, nor would the Commissioner, ever allow any Trooper or anyone under his command to work in a situation where they are not at full potential, where they are in a position to either leave themselves or the public in jeopardy or doing any harm. And while we got great information for this, I fear that we are turning a corner into micromanaging incredibly talented professionals and that we might look at trying to stay at a higher level, get the questions answered.

JOINT FISCAL COMMITTEE

February 12, 2016

But today was informative. I think we may have crossed a line. With that said, I move approval.

CHAIRMAN KURK: Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Further discussion or questions. Mr. --

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I would disagree --

REP. EATON: Expected.

REP. OBER: -- fellow Representative. I think our own concern about capacity and about how many hours somebody is working is something we do need to hear about. And the way we hear about it is to ask those questions. It only means that we are as concerned as you said the Colonel is. And I don't think there's anything wrong with that. And given that, I'm going to vote affirmatively on the motion.

CHAIRMAN KURK: Thank you, Representative Ober.

COLONEL QUINN: Thank you.

CHAIRMAN KURK: Further questions or comments? There being none, are you ready for the question? The motion is to approve 022. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you, gentlemen.

COLONEL QUINN: Thank you, sir.

***** {MOTION ADOPTED}**

JOINT FISCAL COMMITTEE

February 12, 2016

(8) Miscellaneous:

(9) Informational Materials:

CHAIRMAN KURK: At this time, we are ready to move to the Informational items under Tab (9). There are questions about Fiscal 16-032 from the Department of Health and Human Services on New Hampshire's Building Capacity For Transformation. Is the Commissioner here? He just stepped out. Okay. And the other has to do with the Dash Board. It's my understanding the Commissioner wanted to say something about the Dash Board. Commissioner.

MR. MEYERS: Yes, sir.

CHAIRMAN KURK: It's my understanding that you wanted to talk about the format of the new Dash Board.

MR. MEYERS: Well, there were two items I was hoping to be able to address very briefly, and I can take them in any order you would like me to take them. One is the new Medicaid Waiver --

CHAIRMAN KURK: Yes.

MR. MEYERS: -- that I'd like to just spend a couple of minutes on. And then I would like to update some information on the Dash Board.

CHAIRMAN KURK: Why don't you do them in that order, 032 first, which is --

MR. MEYERS: The Waiver.

CHAIRMAN KURK: The information item on the Building Capacity on the Transformation Waiver.

MR. MEYERS: Great. So on January 5th of this year the Centers for Medicare and Medicaid Services approved a Section 1115 Demonstration Waiver. It's called that because under that

JOINT FISCAL COMMITTEE

February 12, 2016

section of the Social Security Act the Congress invested the Secretary of Health and Human Services in Washington with authority to waive existing regulations, if you will, in terms of how Medicaid matches state health expenditures and provide additional funds to states for health care transformation efforts.

New Hampshire applied for a Section 1115 Demonstration Waiver back in June of 2014. There was language included in the New Hampshire Health Protection authorizing legislation directing the Department to submit a waiver. We did so. We got some feedback from CMS that summer. We revised our Waiver request, resubmitted it via letter submitted by the Governor in February of 2015, and in late December we concluded negotiations on that waiver that has resulted in a Federal approval that will provide New Hampshire with access of up to \$30 million a year, starting in Calendar Year 16, for five years for a total of \$150 million. That money represents a new Federal match on both state and county health care related expenditures.

Our waiver is focused on behavioral health for a variety of reasons, including some of the reasons that the Colonel just referred to in terms of responding to the opioid crisis in the State of New Hampshire, and to strengthen the capacity to deliver substance use disorder services and mental health services in New Hampshire that are very important. So our waiver will focus on efforts to increase capacity for behavioral health, both substance use disorder and mental health. It will help promote the integration of the behavioral health services with primary care and other medical acute care, and it will go to help fund what we refer to as care transitions. That is, transitions out of New Hampshire Hospital or out of Glencliff Home or out of a residential substance use treatment facility back into the community to ensure that people coming back into the community after receiving those services are connected to various supporting services, whether it be transportation or peer support, you know, and ensure that they're taking their medications and so forth. So it's a very substantial effort.

JOINT FISCAL COMMITTEE

February 12, 2016

I will come back to the Fiscal Committee next month with an accept and expend item for the Federal funds for the current biennium. So 30 million was awarded for Calendar Year 16 and 30 million for Calendar Year 17. So in order to equate that to the Fiscal Years, I'll have an accept and expend item roughly of \$45 million of the total 150. And then in the next budget, in the next biennium we'll come back again for additional funds. So I just wanted to let you know that that was going to be going forward.

There -- I included in the packet as an information item a copy of the actual terms and conditions of the waiver. It's a very bureaucratic document. It's written in Washington but we are working. We have almost finalized a kind of summary, if you will. It's a PowerPoint presentation kind of describing the Waiver and how it will work. That -- we'll also apply that to the Committee as soon as that's completed so that when I come back next month we can spend a few minutes on that, if you wish to.

I can tell you very briefly that the essence of this waiver is to draw down the Federal monies and the monies will be deposited in an account, a State account, that we are calling a Transformation Fund, and that fund will make awards, performance-based awards to groups of providers who will stand up services on a regional basis across the State of New Hampshire. So this waiver is intended to address behavioral health issues across the State of New Hampshire.

We have -- what we are required to do under the Waiver is to come forward with proposals for project lists for the geography in which these integrated delivery networks, these network of providers. They're not new networks. They're networks of existing providers that will collaborate in new ways for these programs. We are working on that very hard right now. We are going to complete that this month.

The first week in March I'm -- we are going to wait until the school vacation week is over so that people are available and around, but we will go across the State of New Hampshire

JOINT FISCAL COMMITTEE

February 12, 2016

beginning in the first week of March. We are going to be holding public meetings, at least one in every Executive Council District and possibly more than that, and in Concord as well, to explain what the regions are, what the proposed regions are, what the proposed project list is, what the proposed application process is for this program to get feedback from the Legislature, from the public, and others, stakeholders, obviously, providers.

We will then take that feedback, make some adjustments as needed. All of this has to be approved by CMS before we go forward. So we'll have to submit it to the Federal Government. We are targeting -- submitting it back to the Federal Government by the end of March. Once they approve it, then we can really start the process. And so when I come back next month, I'm happy to spend more time, you know, walking you through what the proposed project areas are, what the geography is for the waiver, how the money will flow and so forth. But I wanted to take this initial opportunity to just put this on your radar. I'm happy to answer any questions you may have.

CHAIRMAN KURK: Two questions. First, will you be sharing with us the specific outcome, not output, outcome measures?

MR. MEYERS: So let me make sure I understand your question. So part of the requirements of the waiver are to identify upfront what the outcome measurements are going to be because the money is tied to making progress to these outcomes. The intent here is to make progress and to identify outcome measures, to meet those outcome measures and to make the program sustainable over the five-year period. This funding is not automatically going to continue after the five-year period. And the commitment the State's made in this waiver is to engage the Managed Care Organizations to engage other providers so that there are alternative funding streams to continue the programs if they are to be continued after the five-year period.

So the answer to your specific question is yes, we will be making public the proposed outcome measure as we go in. Once they're approved those are, obviously, public and as the

JOINT FISCAL COMMITTEE

February 12, 2016

Department gathers data and reports, both at the State level and at the regional level, the delivery network themselves have to report to the State. The State will then take that information and report on statewide measures themselves back to CMS, I believe on a quarterly basis after the programs start, and that will be obviously later this year. We will make all of that information public. And I'm happy to include that in some fashion as a report to Fiscal Committee if that's what's desired.

CHAIRMAN KURK: The second question was after this program is concluded in five years and we spent \$150 million, \$30 million per year --

MR. MEYERS: Correct.

CHAIRMAN KURK: -- approximately, will this program require to continue it, assuming it's to be continued, additional General Fund dollars?

MR. MEYERS: No. And here's the reason why. The State has made a commitment to put at least half of its Managed Care payments that exist today and alternative payment model contracts with our Medicaid Managed Care partners, our MCOs, and everyone else who delivers services through Medicaid by the fifth year, by the conclusion of the fifth year of the program. So we need to change the way we are paying for some of these services into a more valued base system, number one. And, two, we've made a commitment that we need to make it sustainable with our Medicaid delivery system partners, Managed Care companies and so forth, within that time period as well. This is not -- the Department has no intention of coming back to the Legislature for standing up all these programs and saying you know what, the Federal money's run out so we would like you to fund it now. That's not what this is about. What this is about is really transforming not only delivery but the payment of these services so that they are sustainable in another way so that the Managed Care delivery organizations, the MCOs, see the value in these programs. And they're going to be included within the capitated rates or the alternative payment models

JOINT FISCAL COMMITTEE

February 12, 2016

that we will stand up over the five-year period. I hope I'm being clear.

CHAIRMAN KURK: I understand that. But why does it cost \$150 million to transfer from where we are now to where you want to be?

MR. MEYERS: Because we don't have a system now. We lack real capacity on substance use disorder services in the State of New Hampshire. And we lack consistent integrated behavioral health across the state. There was a study done by the Cherokee Health Care System for the Endowment for Health on Integration Efforts and there's a lot of good work on integration in behavioral health that's occurred in the state, but we have got a long way to go still.

On substance use disorder, the Legislature passed a budget eventually that included the extension of SUD services to the existing Medicaid population. So that's another 140,000 individuals in the state who have access to SUD services beginning on July 1 of this year. In order to do that, we need additional capacity in the state. So this money is really it's venture capital money in a way. CMS is really acting as a venture capital investment arm for the State of New Hampshire as they have done in other states in order to make the investments necessary to help really transform how services are delivered, including the capacity for those services and how they're paid for.

CHAIRMAN KURK: Thank you. Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Thank you, Commissioner. I think we are all anxious to help you with your outreach, so --

MR. MEYERS: Sure.

REP. WEYLER: -- if you could inform this Committee through the LBA of the dates, times, and places --

JOINT FISCAL COMMITTEE

February 12, 2016

MR. MEYERS: Yes, sir.

REP. WEYLER: -- of these public hearings that you plan. Thank you very much.

MR. MEYERS: We will do so and we want to publicize it very highly, and we are happy to work with everyone in order to do so.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Thank you, Mr. Chairman. Commissioner, is there any effort to work with our own Department of Corrections to transform how we release people from prisons?

MR. MEYERS: The short answer is yes. We have done a couple of things already. For example, the Assistant Commissioner and I, with the full support of Commissioner Wrenn, and Commissioner Toumpas when he was still Commissioner, negotiated a Memorandum of Understanding between the two departments. So the Department of Health and Human Services now is getting on a regular basis, I believe it's monthly, but we are getting on a regular basis the information on every person released from the State Prison System. We are then taking that information and cross walking it with our eligibility system to see whether or not those individuals who are eligible are enrolled, particularly in the New Hampshire Health Protection Program, to ensure that they have coverage.

Corrections -- we're also working very closely with Corrections to ensure that prior to their release that their -- the folks are screened for eligibility, that in fact they fill out applications for the New Hampshire Health Protection Program. Those applications are actually loaded into our eligibility system prior to the release. We can't process it, because we're prohibited under Federal Law from providing benefits to someone while they're incarcerated. But as soon as they are released that application that's been uploaded is processed. And then once they're eligibility is finally

JOINT FISCAL COMMITTEE

February 12, 2016

determined, they're issued a card and so forth and then they're connected. And so we are working very closely on that level.

Additionally, we are going to be looking to amend our current Medicaid State Plan and working with the Counties. And I've reached out. I've talked to the County Association about this already to try to ensure that the Counties are not only capturing Medicaid match for those County jailed inmates that are admitted on an inpatient basis, because they get reimbursed for their inpatient procedures if they're in for more than 24 hours, but there is certain administrative claiming and targeted case management when those individuals are connected with services back into the community that can be reimbursed by the Federal Government through Medicaid.

We're going to work with all the Counties to ensure that the Counties can capture that -- some of those Federal dollars as well to help the Counties ensure that these individuals that are being released from the County jails are connected to the right services. So there's several steps we're taking to ensure that justice involved individuals are getting signed up where they're eligible and that we are trying to connect them to services so that we can, hopefully, over time address their substance use disorder and behavioral health issues so that there's, you know, they don't recidivate at the same rate and so they're not coming back into the system.

Obviously, as you know, Senator, there's an effort to establish a drug court system statewide in New Hampshire which is part of the effort as well.

CHAIRMAN KURK: Follow-up.

SEN. PRESIDENT MORSE: When will we first see the results of how that system is working? Because, obviously, I'm hearing from Senators that are saying that it's the prisons that are the problem. When we are releasing these people they go right back in, because we don't have a system. I would have thought that that would have been our main focus beyond anything else we're doing, because we know who the audience is.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. MEYERS: Yeah. So we can certainly report to you the numbers of folks that are getting signed up. We are happy -- I'm happy to do that on a regular basis. We can include it on some new section of the Dash Board. That's fine. So that you can see how many people being released from State Prison are being signed up.

We also have information, obviously, on State Corrections' individuals whose inpatient procedures are being covered by Medicaid now. We can report those -- Corrections can report those numbers. With respect to the Counties, I think with all candor it's going to take a little bit more time because we are working with the Counties now to be able to tap into available resources. And I think, you know, one of the -- I'm hoping that this waiver that some of the money that will be disbursed under this waiver to these new -- to these networks of providers will work within -- will address some of the issues that you're talking about now in terms of additional services and transitions for some of the County inmates coming out so they can be better connected to support services when they get back into the community, including peer support, including, you know, support to ensure that they're taking their medications and so forth so that that might help -- might help them over time and help reduce the rate of recidivism.

CHAIRMAN KURK: Follow-up.

SEN. PRESIDENT MORSE: One last question. Is it still true two-thirds of this money has to be appropriated by June of this year on the first \$30 million?

MR. MEYERS: I'm not sure I'm following the question. I apologize. What -- what my understanding is, is that we got 30 million a year. Of the 30 million that's been approved for Calendar Year 16, the Department has been given authority to take up to 65% of those funds, or roughly 19.5 million, I think this is what you might be speaking of, Senator, and that money will go out not for services, but for what's called planning and some capacity building, meaning that the IBN, the delivery

JOINT FISCAL COMMITTEE

February 12, 2016

networks will be selected by about, hopefully, sometime in July, and once they're selected then they will get money to help plan for standing up the services. They'll get money to create some of the IT that infrastructure connections, there may be electronic infrastructure connections that may be needed to accumulate data and report data to the State and so forth and to communicate with themselves as well. So about nineteen and a half million will go out this year, mostly for planning and for infrastructure requirements.

The services will get turned on later in the Calendar Year. We are targeting November 1st and that's when the actual programs and projects will be stood up. Is that responsive to your question?

SEN. PRESIDENT MORSE: It's responsive to my question today, yes.

MR. MEYERS: Okay.

SEN. PRESIDENT MORSE: What I don't understand is why we as a state are not going to be ready with all the Corrections end of it because I wrote this and this was two years ago, and I certainly believe in June I'm going to be asking what portion of the stand-up side of it is going to ready to receive those prisoners because the writings out there are getting very obnoxious about us not spending more money, and this 30 million certainly came because of the efforts two years ago, and I would expect that it's going to be --

MR. MEYERS: Yep, yep.

SEN. PRESIDENT MORSE: -- doing something in June.

MR. MEYERS: We are working with a sense of urgency. We know how important this is to the State of New Hampshire. In fact, we got the approval earlier than we otherwise would have because I was able to convince the Government that we needed to do some of this work on the other end of the approval because we had a

JOINT FISCAL COMMITTEE

February 12, 2016

sense of urgency. I certainly hear what you're saying, and I'm happy to come back and talk about it more. Sure.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Mr. Chair, if you'll allow I have coordinated questions.

CHAIRMAN KURK: Sure.

SEN. SANBORN: Thank you, sir. Appreciate it. Jeff, did you first just say that the 1115 Waiver is going to benefit 140,000 people so is it targeted specifically just for the traditional Medicaid?

MR. MEYERS: No, excuse me, I may not have been clear. I made reference to the fact that under the new biennial budget now in effect that the Department will be extending substance use disorder services to the existing standard Medicaid population. That's approximately 140,000 people.

SEN. SANBORN: That's what I was hoping you were going to say. Help this Committee understand. If I understand what you're saying right, there's some certain amount of money in the 1115 Waiver, 30 million a year, some certain amount of that money you're now going to be allocating to substance use disorder. How much? Then my understanding is the amount of money that you provided for substance abuse for traditional Medicaid. How much? And if my memory serves, under the Health Protection Program there's an additional \$18 million a year for that universe. So I'm trying to get a picture how much money we are spending for substance use disorder out of those three buckets.

MR. MEYERS: So I'm happy to supply the information. I don't have the numbers in front of me today. I'll make a note. I'm happy to supply that information to the Committee.

CHAIRMAN KURK: But, if I may --

MR. MEYERS: Sure.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: -- clarify? Is any of the \$150 million being used for substance abuse?

MR. MEYERS: Yes, yes. But it's -- it's being used to help build capacity for those services. So, for example, to the extent that there are emergency rooms that don't have sufficient staff to help screen and redirect people with SUD problems that don't have -- that have detox issues, that have substance use related problems, that money will go to help cross-train people or supply additional people that can work in emergency departments.

I've talked to CEOs in the hospitals in the state that say they don't have the personnel in the E.R. that are sufficiently trained to handle some of these complex patients. So the money's not being spent necessarily on a service per se in every case. Some of the money will end up going for services, but it's really to increase capacity and to increase integration so that when someone shows up at their primary care doctor and they have a SUD problem that primary care doctor has someone that they can send that person to, someone that may be co-located, in fact, in the same practice. But that's the type of thing, this money is really seed money to help build a more integrated and responsive system as a whole, not just to stand up, you know, a new service or an additional service per se.

CHAIRMAN KURK: When you come in March, then you'll have a breakdown of how this money is going to be allocated?

MR. MEYERS: Well, not completely and not finally.

CHAIRMAN KURK: As much as you have.

MR. MEYERS: We'll have what's proposed, yes.

CHAIRMAN KURK: Fine.

MR. MEYERS: But not what's been finally approved.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Thank you. Any further questions? Senator Forrester.

SEN. FORRESTER: Thank you for coming in, Commissioner.

MR. MEYERS: Of course.

SEN. FORRESTER: Any of this 150 million, any of it can be used for bricks and mortar?

MR. MEYERS: It cannot.

SEN. FORRESTER: It cannot.

MR. MEYERS: It cannot be used for any capital expenditure.

CHAIRMAN KURK: There being no further questions on 032.

MR. MEYERS: Right, right.

CHAIRMAN KURK: 034 is the Dash Board.

MR. MEYERS: Right.

CHAIRMAN KURK: There were some changes that you made in that Dash Board, and I think Members -- some Members have questions about it. But I understand you wanted to make a general statement first.

MR. MEYERS: Yes. This is the first Dash Board that I have been involved with in helping to prepare for this Committee. I, obviously, value the Committee's comments and reaction to it. We -- the Department, wants to ensure that this is helpful to people, it's helpful to the Legislature, it's helpful to the public in understanding the financial picture of the Department, as well as the reporting that's done within this report with respect to our caseloads and programs and so forth. So we have made a few changes. I think the changes are relatively minimal, and I think they're more stylistic with the exception of one.

JOINT FISCAL COMMITTEE

February 12, 2016

There's a letter that summarizes certain facts that we want to highlight that's been added upfront. This Dash Board is reported on a cash basis as opposed to an accrual basis. It's our view, and I'm happy to hear your comments, that's a more transparent way of identifying the Department's financial position. And as was done, I think, one other instance, there's a report on some of the Department's initiatives that have been added to the end of the report.

So, as I said, I want this to be useful to everybody. I'm happy to get feedback. There's one substantive piece of information I'd like to relay. As noted in the first paragraph, I think, of the letter, because of the timing of this meeting being a little bit earlier this month than otherwise normally is, the caseload information that was available at the time we had to submit this Dash Board was through December. The financial information was through January. I have since obtained additional information with respect to our caseloads. I'd like to just put it in the record, if I could.

So the standard Medicaid population that is not including the expansion population through December, at the end of December was 138,287. That represents a decrease from the prior month of about 336 individuals or negative .2%. What I would point -- and the change from June the 15th. So the budget assumed a drop of about 2%, 2.0%. The change since the end of June of '15 is actually a slight increase of .03%. And as you can see from the financial information reported, one of the concerns the Department is, obviously, tracking very closely is the shortfall based on the caseload.

So the caseload trend is kind of -- it's not moving significantly downward. It's not moving significantly upward. It's kind of tracking and kind of a narrow band, very close to what it was when the budget was put into place.

The Health Protection Program, if you add that in, and then you've got a total of 186,524. There's approximately 47,500 individuals as of the beginning of this week that were enrolled in the Health Protection Program. I get those numbers updated

JOINT FISCAL COMMITTEE

February 12, 2016

weekly. So that's where we are with caseloads at the moment. I mean, clearly, we have identified some financial challenges that we are, obviously, paying very close attention to, and we'll work with the Legislature and the Governor in addressing. Thank you.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you, Commissioner. We've had this conversation a few times.

MR. MEYERS: Sure.

SEN. FORRESTER: I'm just looking at an old Dash Board as compared to the new Dash Board.

MR. MEYERS: Okay.

SEN. FORRESTER: And just a quick look at it, it appears at least in the original or the Dash Board we're used to seeing, there were 52 lines.

CHAIRMAN KURK: Senator, could you identify the page or the title?

SEN. FORRESTER: Well, I'm looking at June 2015 Dash Board.

MR. MEYERS: June of '15.

SEN. FORRESTER: Yes. So I don't think you necessarily have this.

MR. MEYERS: No, I don't have it in front of me but that's okay.

CHAIRMAN KURK: But in the Dash Board that you presented, it's on Page 2 of 19 and it's called Financial Summary Cash Basis.

MR. MEYERS: Correct.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: And it has a small number of lines.

MR. MEYERS: Correct, I see that. Yeah.

SEN. FORRESTER: So the -- in the old Dash Board there were 52 lines of information. In the new Dash Board there's 27 lines of information and --

MR. MEYERS: Well, I -- go ahead. I'm sorry, go ahead, please.

SEN. FORRESTER: I guess and the Chairman made a suggestion which I thought might be a good one.

MR. MEYERS: Sure.

SEN. FORRESTER: To help us understand what's going on that maybe for the next few months we run a parallel with what the old Dash Board is and the new Dash Board to help us or either come in at the next Fiscal Committee meeting and go through these with us and help us understand what has changed. What are we not seeing on this because you've changed language, too, so --

MR. MEYERS: Right.

SEN. FORRESTER: -- maybe it's there and we just don't see it.

MR. MEYERS: I think -- I'm happy to do that. Thank you for the comment. I appreciate that. We want this to be helpful to people. I've thought about ways we can add a little bit of detail to these lines. The substance starts on Line 12 and goes to kind of, what, 53? So you're right. But don't forget, this list will change depending on what part of the Fiscal Year are we in and how many issues we have resolved or not resolved. And so it's dependent on that, in part. But I hear your comment and we will work with you and the Committee, with everyone on the Committee to ensure we have something. And next month when I come back, I'm happy to go through line by line.

JOINT FISCAL COMMITTEE

February 12, 2016

SEN. FORRESTER: Okay. Thank you.

CHAIRMAN KURK: There may be other ways for us to learn.

MR. MEYERS: Or maybe something in advance of the meeting.

CHAIRMAN KURK: Would it be possible for you to provide both Page 2 of your current one and Page -- there's no page number -- Table A which is entitled May Dash Board Budget Planning from the June 12th.

MR. MEYERS: Yeah. That's the past Fiscal Year. And I would just want to note that so a lot of those issues are no -- some issues may be present but some issues may no longer be active, so to speak. And if what the Committee -- I think what I'm hearing, and please tell me if I'm wrong, is that you're looking for an update in terms of how some of that was resolved and why it may not be reflected on this particular Dash Board.

CHAIRMAN KURK: Yes, but I think we are also looking for help during the transition period as we become adjusted or used to the new proposal or new format, that we continue to have the information in the old format. So you could have both pages of the Dash Board.

MR. MEYERS: Yeah.

CHAIRMAN KURK: After a period of time when we're more comfortable with the new format, then perhaps we could eliminate that page.

MR. MEYERS: Let me go back and look at it and I'll work with Mr. Kane and we'll address your concern.

CHAIRMAN KURK: I have a question.

SEN. SANBORN: Mr. Chair, always defer to the Chair.

CHAIRMAN KURK: I have a question on substance.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. MEYERS: Sure.

CHAIRMAN KURK: How are we doing on the reductions that are statutorily required for the Sununu Center? Are they reflected in the numbers here?

MR. MEYERS: One is certainly. I mean, there's the reduction that's required obviously is noted on the first page under SYSC of 1.7. That's for the Fiscal 16. There's, obviously, another reduction for Fiscal 17. My predecessor when he addressed this issue, I think, last -- in his last meeting made the point that the Department would in all likelihood be able to manage the '16 reduction but '17 was another matter. And it certainly raised a question about the viability, the financial viability of managing the facility with that reduction.

The Department has performed and been working on and, in fact, have gotten an approval from the Federal Government with respect to potentially repurposing part of the facility into a substance use disorder treatment facility for youth, co-locating that type of treatment there. That's something that we're interested in potentially in helping to address the financial issues that that facility presents.

CHAIRMAN KURK: I don't quite understand how using part of the facility for another purpose has anything to do with the financial aspect of the Sununu Center, except to the small extent that some of the maintenance costs could be allocated elsewhere.

MR. MEYERS: Well, I think it's -- our view is that it's a little bit more complex than that, in that by utilizing the facility in a different way -- I mean, you've got fixed costs that exist now for a limited number of people. Now, the census has risen a bit and that's related, I'm told, largely to the change in the age of majority. So there's a daily census now that's hovering, I believe, at least the last time I was told last week it was hovering around 72 or 73. That's up from what it had been prior to that time. But to the extent that there is other services that are co-located there, it could introduce a

JOINT FISCAL COMMITTEE

February 12, 2016

different financial model for the operation of the facility. I think they're going to be very significant challenges if we don't change what we are doing if the census stays the same, because as you know the facility is built to be able to house -- excuse me -- have the capacity for about 140 individuals roughly that I'm not sure we could continue to operate the facility if we have to make a Fiscal 17 reduction.

CHAIRMAN KURK: That thought was that you might consider privatizing or outsourcing those individuals. That was a concept behind the numbers that was put in the budget for the Sununu Center.

MR. MEYERS: Yes, I understand that's what was thought at the time those numbers were put in. Yeah.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Headed down the same pike. I heard several times a waiver has been filed for and I'm not sure the Legislature spoke on this issue.

MR. MEYERS: There's nothing that's been decided, Senator. There's nothing -- the Department hasn't entered into any agreement with the Federal Government to do anything yet. We wanted to understand whether or not they would entertain this type of change without a financial penalty, without triggering any repayment of some of the funds that were basically accepted by the State in order to construct a facility for its original purpose. So that outreach was solely to understand the financial implications if we were to move in that direction.

CHAIRMAN KURK: Senator.

SEN. PRESIDENT MORSE: I've heard several times specifically that the Waiver has been broached in Washington to specifically move another group into that building. I don't believe the Legislature spoke on that. The Legislature was certainly headed towards privatization and the Executive Branch does not want that. To talk about two little things of privatization is not

JOINT FISCAL COMMITTEE

February 12, 2016

where the Legislature was talking. They were certainly talking about privatizing the whole operation.

MR. MEYERS: Yep, yep. Understood.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chairman. Commissioner, if I can point you to Page 2 of 19.

MR. MEYERS: Yes.

SEN. SANBORN: So I want to talk a little bit about cash basis reporting versus accrual basis reporting. I always hate to do both at the same time.

MR. MEYERS: Yep.

SEN. SANBORN: But when I look at the Dash Board and the financial ramifications of it, the first thing you have, obviously, is you're suggesting right now a \$27 million shortfall in Medicaid. Being only six months into the program, I guess at some point I'd like to have a little better understanding of why we're already so short and when we look forward where we think the trend is going to go?

The second half of that question is I understand you're now presenting on a cash basis, but how are we reconciling our Managed Care net 90-day with the change?

MR. MEYERS: Yes, understood.

SEN. SANBORN: Give the Committee, if you can, a more robust view of really where we are financially when we look at both cash and accrual at this point.

MR. MEYERS: Well, I'm the last person you want to start getting into the difference between cash and accrual. I'm not the CFO and I apologize for that. I do want to address why we're short on Medicaid and that's because of the caseloads. And

JOINT FISCAL COMMITTEE

February 12, 2016

there were assumptions built into the budget along with the information that was available at that time in good faith that caseloads were going to drop by 2% and they haven't dropped by 2% and that's the -- that is really the bulk of the shortfall that we are experiencing in Medicaid. So that's something that if it doesn't change obviously has to be addressed.

And to your specific financial questions, I -- I would ask that you allow me to -- I can supplement with some responses, but I'd like our CFO to be able to respond to that question.

SEN. SANBORN: Thank you.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you.

MR. MEYERS: Yes, Senator.

SEN. FORRESTER: Commissioner, is that increase, that's in the existing population?

MR. MEYERS: Correct.

SEN. FORRESTER: Is that because of MAGI?

MR. MEYERS: I think there are -- no. I mean, my understanding is that that bump by the Federal Government moving to a new eligibility test, if you will, back in January of '14, that that bump was already experienced then.

Now, some of those people are still in the system. I think there's some other reasons why the caseloads may not be going down. But there was an assumption, as I said, on good faith that they were going to drop, and they haven't dropped. And so we're under because the, you know, the net decrease in June, actually there's a slight net increase since June of .3% as opposed to a 2% drop.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Could you provide us some more information about MAGI? I thought income tests were related to the expansion population?

MR. MEYERS: No, no. There were four groups that were -- there were four population groups that were subject to what's called MAGI, the Modified Adjusted Gross Income method of determining eligibility that was put into place effective January 1st of 2014 under the Affordable Care Act as a requirement of Federal Law. So the states were preempted from having any other test at that point.

CHAIRMAN KURK: So for the traditional population?

MR. MEYERS: Yes, including -- not every group within the traditional population, but for the majority of the traditional population.

CHAIRMAN KURK: There's a new way to calculate income?

MR. MEYERS: There's no asset test. It eliminated the asset test.

CHAIRMAN KURK: For the entire population, 190,000 people?

MR. MEYERS: Correct. And I'm happy to supply the Federal Law and regulations and the explanation of it if you would like me to. But that took effect under the Affordable Care Act in January of 2000 -- I believe it was January of 2014.

CHAIRMAN KURK: So the Representative who claimed that his yacht wouldn't disqualify him from Medicaid was correct?

MR. MEYERS: I'm not aware of any of our enrollees that have yachts, but I hear what you're saying. Yep.

CHAIRMAN KURK: Thank you. Senator Sanborn.

SEN. SANBORN: Thank you. For the record, Mr. Chair, I am personally --

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Your yacht?

SEN. SANBORN: No, I don't have a yacht, Mr. Chairman. Thank you. But I can say undefinitively (sic) I know at least one person who has well in excess of a million dollars who is presently on Medicaid as a result of MAGI. So, clearly, it's a conversation to be had but that's not my question.

My question to you, Jeff, in the information you're providing the backup information on caseloads.

MR. MEYERS: Yes.

SEN. SANBORN: At this point under Draft 11 and 12 you're combining both traditional Medicaid and the HHP. You talk about your concern about the trend didn't fall 2% like you said it would.

MR. MEYERS: Right.

SEN. SANBORN: In this case I can't see that because now we're showing 185,000 people on.

MR. MEYERS: Well, but 47,000 plus, don't forget, are now being paid for 100% with Federal funds.

SEN. SANBORN: I appreciate that. When I look at trend analysis, we think a 2% -- a lack of a 2% reduction of Medicaid caseload in traditional Medicaid is costing us \$40 million a year. I would think that would be a trend we'd want to really start paying attention to.

MR. MEYERS: And we are.

SEN. SANBORN: If you could provide this Committee that type of information because I can't see it.

MR. MEYERS: Sure. Okay. Okay. Okay.

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Further questions about the Dash Board?
There being none, thank you, Commissioner.

MR. MEYERS: Thank you very much and appreciate the effort to meet with you.

CHAIRMAN KURK: And we look forward to the next one.

MR. MEYERS: I do, too.

AUDITS:

CHAIRMAN KURK: At this time we'll turn to the Audits. Senator Morse, do you have a preference which one we do first? We will then do these in order.

The first audit is the Bureau of Developmental Services Unspent Appropriations.

STEPHEN SMITH, Director, Audits Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. I guess it's afternoon now.

CHAIRMAN KURK: Good afternoon, Mr. Smith.

MR. SMITH: To present the first audit from our office -- again, for the record, I'm Steve Smith, the Director of Audits for the Office of Legislative Budget Assistant. Jay Henry, the Manager on this audit, will present and joining us from the Department is Deputy Commissioner Nihan. I believe Lorene Reagan is available, too. I'll turn it over to Jay.

JAY HENRY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman, and Members of the Committee. For the record, my name is Jay Henry, and I'm a Senior Audit Manager with the LBA Audit Division. I'm presenting our Performance Audit of the Bureau of Developmental Services for State Fiscal Years 2014 through '15.

JOINT FISCAL COMMITTEE

February 12, 2016

The purpose of our audit was to determine if the Bureau efficiently and effectively managed Medicaid appropriations to ensure clients timely received services. We specifically examined the reasons for Medicaid appropriations not being spent. We reviewed two Medicaid Waiver Programs' clients with either acquired brain disorder, which we abbreviate to ABD, or a developmental disability, which we called DD in our report. The Bureau is responsible for administering these programs through a system of ten Area Agencies and other service providers. Our Executive Summary starts on Page 1.

During the 2014-15 biennium, 674 clients were removed from the DD Wait List which exceeded the budgetary goal by 20. However, we found weaknesses in the financial and regulatory aspects of the programs which resulted in the Bureau having eight ABD clients and 101 DD clients on the Wait List at the end of the biennium, even though more than \$38 million dollars available appropriations went unspent.

The Bureau was given 15% more funding in State Fiscal Years 14 and 15 compared to the prior biennium, for a two-year total of almost half a billion dollars, including three -- 38.9 million just for Wait List clients.

Starting on Page 3, the Recommendations Summary shows the Department concurs with seven of our 12 Observations and concurs, in part, with the other five. We note that two recommendations could require legislative action.

Starting on Page 5, we provide background on the Medicaid Waiver Program, their services, and definitions for ABD and DD.

Table 1 on Page 7 shows the Waiver expenditures, the number of clients served during the given year, and the average expenditure per client. The ABD clients' average is about double the DD average because only the most severely affected ABD clients who are eligible for nursing home care can receive Medicaid Waiver Services, whereas the DD Waiver Program allows a much broader range of clients to receive services.

JOINT FISCAL COMMITTEE

February 12, 2016

We also described how the ten legislatively-created Area Agencies are responsible for providing services either with their own staff or with subcontracted providers. In addition, we present two positive national measurements of New Hampshire's DD Program based on surveys from DD family members and a national comparison of DD clients participating in integrated employment.

Starting on Page 9 in our Program's operations chapter, we describe how the Waiver Program Budget is allocated to DD clients. The State provides two funding lines for the DD Program; one for maintaining services to clients, and another for new services for existing and new clients which is called the Wait List Budget Line.

Figure 1 on Page 10 represents how the Bureau targets these funds. The Bureau was given \$14.6 million in 2014 to take clients off of the DD Wait List. These first year Wait List clients also needed to be funded during the second year of the biennium so the Bureau planned on spending 17.9 million on them in 2015. The reason it cost more during the second year is our clients are receiving services for the entire year, whereas clients had staggered starting dates in 2014. Figure 1 also shows that \$6.4 million of Wait List funds were being used for additional clients in 2015.

The Bureau did not spend \$38.5 million or 8% of these Medicaid Waiver Programs appropriations. This caused a total of 20.6 million to lapse back to the General Fund over the biennium as shown in Table 2 on Page 11. In State Fiscal Year 2015, the Bureau started examining why millions of dollars were not being spent. Beginning on Page 11, we list the factors that created gaps in service provision and expenditures, such as client illnesses, inclement weather, late service starts, difficulty in hiring and retaining service staff, funding influx, lack of Area Agency flexibility, annualizing Waitlist allocations, and the awareness of non-lapsing Waitlist funds. Each of these factors could reduce the amount of funds available to clients and result in funds lapsing back to the State. According to the Bureau and Area Agency officials these factors affected the 10 Area Agencies in differing degrees.

JOINT FISCAL COMMITTEE

February 12, 2016

Starting on Page 13 in Observation No. 1, we found the Department was unable to distinguish between expenditures for maintenance and Waitlist clients. Table 3, on Page 14, shows the Department did not track which budget line had unspent funds, yet the Department reported 11.2 million of the 14.6 million of Waitlist appropriations were not spent and was carried over for use in 2015. We estimated based on information from the Area Agencies that only 4.4 million of Waitlist funds were not spent in 2014.

In Observation No. 2 on Page 16, we explained what prevented the Bureau and the Area Agencies from maximizing their use of appropriated funds. The Department initially lacked a thorough understanding of the factors contributing to the substantial increase in unspent funds during the 2014-15 biennium. Prior to this, lapses were smaller and also useful for the Department to meet various required budget reductions. As a result, the Bureau did not have management controls to effectively track unspent funds and to subsequently redirect them to remove additional clients off the Waitlist. The Bureau Funding Guidelines were designed for a budget constrained environment and saw, in part, to prevent Area Agencies from obligating DD Programs to continually providing services to clients in subsequent years without accounting for those expenditures in future DD budgets. The guidance was complex, but ultimately restricted most redistributions to only funding one-time expenses.

Starting on Page 18, we discussed Waitlists and Table 4 on Page 19 presents yearly averages and the end of year totals for ABD and DD Waitlists.

In Observation No. 3, we identified problems with how the Waitlists were managed, including the need for procedures to be established in rule or contract. The Bureau allocated Waitlist funds and the minimum number of eligible persons to be served by way of a spreadsheet and e-mail and not by contract that was used for other appropriated funds. Bureau controls were unclear leading to confusion and misunderstanding regarding the

JOINT FISCAL COMMITTEE

February 12, 2016

allocation and use of funds. Area Agencies also reported inconsistently understanding of Bureau guidance on moving funds across Fiscal Years within the biennium.

In Observation No. 4 on Page 23, we recommended the Bureau fully implement its revised redesignation process which was halted in 2011 because of the Bureau staffing issues. Statute requires that the Department subject Area Agencies to re-approval every five years. Reviewing Area Agencies' compliance with statute rules was an important management control that helped the Bureau ensure programs met their objectives.

Starting on Page 24 in Observation No. 5, we discussed the Medicaid authorization process. After a client is found eligible for Medicaid Waiver Services and the client's budget has been approved, the Area Agencies must seek prior authorization in order to bill Medicaid. There was no manual or other written policies and procedures or rules did not address this -- the entire process. The Bureau had no system to track process and times or other measurements to assess the systems operations but reported undertaking an analysis to improve this process during the first quarter of State Fiscal Year 2016.

In Observation No. 6 starting on Page 26, the Bureau -- we found the Bureau's administrative span of control was too wide which created management challenges. In late 2015, the Bureau's administrator reported serving as the direct supervisor for 14 subordinates.

In Observation No. 7 starting on Page 29, our Management Control section -- in our Management Control section we found that the State Laws regulating the system did not completely incorporate ABD clients and did not facilitate timely delivery of service. The DD statute establishes a system and requirements for providing services to DD clients, whereas the ABD statute lacked similar requirements.

The ABD statute did provide rulemaking authority which enabled the Department to establish eligibility and service

JOINT FISCAL COMMITTEE

February 12, 2016

requirements for ABD clients to access the DD service system. Additionally, service guarantees for DD clients and certain rights of DD persons were established in statute but were not addressed in the ABD statute. We also found that State Law did not mandate the tracking or reporting of timeliness of ABD services.

In Observation No. 8 on Page 31, we found rules regulating the service system were unnecessarily complex, lacked clarity, and required ad hoc rulemaking.

In Observation No. 9 on Page 35, we found ABD and DD rules regulating the system did not facilitate statutory compliance or timely service delivery.

The Department staff and Area Agencies reported compliance with the statute and regulatory time limits were not routinely examined. Consequently, no responsible party within the system had any accurate measures on how long clients had to wait to receive services.

Starting on Page 39 in Observations number 10 and 11, we found gaps in the Department rules, especially with program forms not being properly incorporated, existence of inconsistent definitions and substantial financial control requirements imposed on Area Agencies through guidance and other informal instructions which should have been established in rules. In addition, we found that the Bureau did not have written policies and procedures for many key functions.

In our last Observation starting on Page 42, we found the Bureau lacked management controls over information technology systems it owned or relied upon to operate the program. The Bureau did not have policies or procedures detailing or assuring that the proper use of these systems which was based on dated technology and were not supported by New Hampshire's Department of Information Technology.

Appendix A provides details on our methodology and Appendix B contains the Department's response to the audit.

JOINT FISCAL COMMITTEE

February 12, 2016

Lastly, we'd like to thank the Department and the Area Agency officials and Bureau staff for their cooperation with the audit process, and be happy to answer any questions the Committee has at this time.

CHAIRMAN KURK: Senator Sanborn. Thank you very much for that presentation, by the way.

SEN. SANBORN: Gentlemen and ladies, thank you so much. Thank you for your presentation. Thank you for coming in. And it is not my intent to make my comments reflective of the work you all do although, quite frankly, I am absolutely stunned and amazed that the Commissioner and Governor aren't sitting here at this point. I mean, look, this is a line item. This is a program that's virtually 25% of the spend of our state in Health and Human Services. And I feel that we have -- I mean, we have foundationally failed our number one goal in this state which is helping people that are most in need. I just don't understand how we could have -- I mean, I've only been here for six years, and I've never seen such a condemning report on mismanagement that I believe comes right from the top of our state. I mean, we are supposed to help people that are in need and to sit here and read a report like this, where we're lapsing \$20 million into a fund where we're telling over a hundred people that we don't have services for them is staggering. How can we fix this?

CHAIRMAN KURK: Senator, perhaps I called upon you prematurely. I thought you were going to ask something about the report. We probably need to give the Agency a chance to respond to the report, and then your question would be appropriate.

SEN. SANBORN: My question will stand for the Agency. Thank you very much.

CHAIRMAN KURK: Are there questions about the report that we heard so far? Would the Agency -- would the Agency care to respond? We do appreciate that report. And I agree with the Senator.

JOINT FISCAL COMMITTEE

February 12, 2016

MARILEE NIHAN, Deputy Commissioner, Department of Health and Human Services: Yes, sir. Thank you, Chairman Kurk, and Members of the Fiscal Committee. My name is Marilee Nihan, Deputy Commissioner of the Department, and I am here with Lorene Reagan – I get my E's and A's mixed up these days – who is the Director of the Bureau of Developmental Services within the Department.

I'd like to take a few minutes to comment on work that's already being done to address the issues here and talk about the approach that the Department is going to take to respond to these findings. We are, as well, very concerned about the DD System and have been for some time. In fact, we requested this review in order to look at the efficiency and the effectiveness of the system. The Department is interested in reviewing the service delivery system as a whole, which includes the Bureau of Developmental Services within the Department and the State's ten Area Agencies. We believe the scope of the necessary improvements is broader than the scope of this report, which focused solely on the lapse that occurred in '14 and '15 to include the Bureau and the Area Agencies' operations. We believe it is imperative that we approach this discussion from a systemic perspective, one system that serves all clients at the local level.

The Department recognizes that improvements need to be made to the system and that implementation of regulations and program requirements must occur in a uniform and disciplined manner.

With respect to this audit, BDS has previously self-identified many of the issues identified in the Audit Report and has begun to address them. Rules -- the He-M 503 Rules that govern DD services were updated in July of 2015. The DHHS has been having regular meetings with the Area Agencies, often weekly, meeting with them both as a whole and individually to review their Waitlist spending, the status of prior authorizations for individual clients, the provision of services against those authorizations, and the billings thereof.

JOINT FISCAL COMMITTEE

February 12, 2016

As a result of those discussions, BDS has a greater understanding for the reasons resulting in the lapse and has initiated certain improvements. Some of those improvements include requesting additional reporting by the Area Agencies on the DD Maintenance and Waitlist expenditures, better integration of identifying individuals' needs through the health risk screening tool, and the supports intensity scale in developing service treatments in individual budgets. And, finally, standardizing service agreements and budget templates across the ten Area Agencies.

One of the most significant areas of improvement needed is in the area of prior authorization and timely billings. Area Agencies are presently only billing about 10% of what would be permissible under the Waitlist's appropriation this year.

There are a number of reasons for this that BDS is helping agencies to identify and remedy. However, anecdotal information from the Area Agencies is that they are on track with providing services in the Maintenance Line and the Waitlist Line as of December 31st. We are hopeful that the efforts are already having a positive impact and that individuals are getting the services they are eligible to receive. Nonetheless, BDS needs to ensure that timely and accurate information is available to them from the Area Agency System to accurately monitor the provision of services.

The Bureau and the Department looks forward to working with the Legislature to make changes recommended by the Audit and to track progress in our improvement plan. Some of these changes will include changes in the budgeting process, flexibility in spending funds, statutory changes, and amendment of rules. Improvements in information systems need to be made and personnel, both within the Department and at the Area Agencies, must be appropriately trained to use these systems. The Audit highlights the need for policies that allow flexibility to transfer money among accounts and doing so will require rule changes and legislative support.

JOINT FISCAL COMMITTEE

February 12, 2016

The Department is committed to ensuring that requirements for all agencies are uniform, clearly identified in rules and contracts as appropriate, and consistently adhered to.

We are committed to continuing to work with the Area Agency System to identify where funds are not being utilized to the fullest extent possible so that individuals can be provided with quality, necessary services on a timely basis.

CHAIRMAN KURK: Thank you. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Gentlemen -- I apologize. Ladies, again, I know how hard you work and I appreciate it; but, obviously, all of us up here are just aghast at this. Are there still people on the Waitlist today?

MS. NIHAN: There are 153 individuals on the Waitlist.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And do we have excess funds that haven't been disbursed?

MS. NIHAN: According to the Department records, yes; but that is one of the areas of the Audit where we -- that the Audit identified that the flow of information is not allowing us to accurately see that picture.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And it's my understanding that Senator Morse led the charge, I think, two years ago and all members of the House and Senate supported a policy perspective that we don't want anyone to be on the Waitlist. If my memory serves me, we committed additional resources to make sure we could eliminate the Waitlist. How do we fix this, like by lunchtime?

CHAIRMAN KURK: He's talking about a late lunch.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. NIHAN: Thank you. I want to assure you, we do not want anyone on the Waitlist. We want to make sure they are getting the services they need as soon as possible. The reasons why individuals are on the Waitlist and why they are not getting those services were listed by Mr. Henry in his testimony. They are numerous. They are complex. We didn't get into this situation overnight, and we are not going to get out of it overnight. Having said that, I want to make very steady improvements to get to the optimal place where we need to be.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Yes. Marilee, thank you, and I respect you greatly. You're very intelligent. And to come before me today and tell me that we are making progress and everything, we got over a hundred thousand people we know exactly what we're paying for them. They're capitated. We switched that system. So we made sure we know what we are paying for our Medicaid patients. It was a great move by the Department, a great move by the Legislature.

Now we come here with a group of people and I can tell you I've never felt more strongly about this until I have a presidential election where someone basically attacks a disabled person, to come here today and say this 101,000 was even thought that it was left there, or acceptable, I believe it was planned. You guys have been so accurate in that Department. When you testified before the Senate, your CFO said we know exactly where we are with the lapse. The Dash Board when printed what I believe is properly, showed exactly where we were with the lapse. So what's really going on here? Am I going to believe that we have never had snow before, that we have never had client illness before? I'm not buying it.

I honestly believe we knew in '14 we had a lapse. You guys started investigating it, and then that lapse grew significantly in '15. There's something bigger going on here. I don't understand why it was mismanaged, and I'm certainly not going to throw a Commissioner under the bus that left here, because he

JOINT FISCAL COMMITTEE

February 12, 2016

knew how much I cared about this. So somebody better come forward and say why we let this lapse get this large because, quite honestly, it isn't \$20 million. It's almost \$40 million when we add the Federal funds. And you can't tell me the Area Agencies didn't feel that. I don't know that I have a question, Mr. Chairman. I feel so strongly that we need to figure out why a lapse could be left this large that Fiscal has more work to do.

CHAIRMAN KURK: Senator -- excuse me. Senator Forrester.

SEN. FORRESTER: Thank you. Thank you, Marilee, for coming in and Lorene. Give you a lot of credit, must be hard for you to be on the other side reporting on this kind of Audit. And to Senator Sanborn's point, I am actually really shocked and disappointed that the Governor's not here, that the Commissioner's not here. This is and has been a number one priority for the Senate. You know, in Senate Finance we were trying to figure out what was the appropriate number to put to the DD community and the Waitlist, and those numbers bounced all over the place. To Senator Morse's point, I think something else is going on here. And I heard you say you're hopeful that this is going to resolve the problem. And I would just say to you, I want to see more than hope.

Hum -- I talked, you know, quite often with the DD community. And so some of the things they're addressed, I heard from them as well, but there was something going on in the -- there was something going on in the agency where the flexibility that they had before was no longer flexibility they had which was causing some of the problems. So I expect we are going to get this resolved and take care -- be sure to take care of that most vulnerable population. So thank you.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you. Mr. Chairman. Commissioner, Mr. Henry always brings us very thorough work. Not much escapes him. He's brought us a very good work before. He also gives us ideas of how to correct them, the problems he finds. Now, we are here

JOINT FISCAL COMMITTEE

February 12, 2016

as legislators to help you fix this. We need a contact person who will be working with us on the suggested legislation. I have a bill that I may be able to use as an amendment to. I don't know yet, depends on the cooperation of the Committee. Otherwise, it will be some delay until next year perhaps, but we need to get working on this. We need to begin to do things legislatively and so on. Also in your rules that need to be fixed.

One of the things that I emphasize in the bill I'm thinking of is we don't have enough qualitative analyses of those we contract with, the Area Agencies. I don't think the HHS does enough to say look at them all and see which ones are doing better than another. And maybe some should lose the contract and others be asked to take on more work because this has become fairly common that we just give it to an agency and then we expect things to happen. We don't really analyze and we have enough of them that we can compare one with another. I rarely see any comparisons to see whether we are really analyzing which ones do a better job than another and warn those that are not doing a very good job. That's part of the bill I have in. Hoping you can cooperate and get some of this into it.

Anyway, we need a contact. We need to know who's the assigned person working on this. Give it to the LBA and we'll get our sources together. Thank you, Mr. Henry. Thank you to the Agency. We hope we can work together and fix this problem.

CHAIRMAN KURK: A question about moving to Step 2, would that solve this problem?

MS. NIHAN: The remaining components of Step 2, Care Management, do call for the integration of these Waiver Services into the program. I do believe that it is the right thing to do so that the client is getting all of their services, whether they be State Plan services or labor services managed in a coordinated and cohesive fashion.

The items identified in the Audit I do believe are not related to the Care Management Program and won't be fixed purely

JOINT FISCAL COMMITTEE

February 12, 2016

by that transition alone. There will have to be other work done. I want to be sure that as we fix the items identified in this Audit that we do it in a way that allows for the payment reform that needs to happen, the value-based payments that Commissioner Meyers talked about a few moments ago and allows for the flexibility for the Care Management Program to grow and develop.

CHAIRMAN KURK: When will Step 2 take place?

MS. NIHAN: The next planned piece of Step 2 is the Integration Nursing Home and CFI Services. That is the Waiver for long-term care elderly clients who are receiving in-home care. Those services are slated to be integrated this fall. There is a tremendous amount of work that needs to be done to get to that point and then the integration of these services would be done thereafter.

Right now we are assessing the work that needs to be done to integrate those two remaining components, garner the necessary Federal approvals, make improvements in our own infrastructure and systems as well as the MCO infrastructures. And we are reviewing all of that work that needs to be done in light of the fact that the current contracts are scheduled to expire in June of 2017, which when we look at the timeline is not long away.

CHAIRMAN KURK: So what you're saying is basically the DD folks will not, best case, be under Managed Care before the end of this biennium, which means that we are not going to -- that the Department is going to have to take whatever steps while it's still providing the services -- well, providing the services through the Area Agencies to make sure that these 153 people you mentioned on the Waiting List, in fact, start getting services and that the money that we appropriated for these services for all of the individuals, maintenance, as well as Waitlist, get put to the use intended by the Legislature. So it's really on you, the Department, to deal with this issue. It's not going to go away within this biennium through Step 2 or 3.

JOINT FISCAL COMMITTEE

February 12, 2016

MS. NIHAN: Absolutely.

CHAIRMAN KURK: Are you assuring us at this time that that is going to happen so that some of the more deeply felt comments you heard this morning will have found their mark?

MS. NIHAN: Sir, I do this work for a reason. And the reason is that I care as deeply about the clients and the people who live in this state as all of you do. I want for this system to get fixed. I want for it to be running as optimally as possible. And I want for the -- mostly for the clients to live at their highest potential, which is something we all have been allowed to do, and we need to make sure that it happens for them as well.

CHAIRMAN KURK: You're assuring us this is going to happen this biennium?

MS. NIHAN: Yes.

CHAIRMAN KURK: Thank you. I appreciate that, and we will work with you to make that happen.

MS. NIHAN: Thank you.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: One more question. I think those that are on maintenance on the DD list, I think we average about \$45,000 a year in services. But I think that the misnomer is that if you're on the Waitlist you get zero services. My recollection is you're identified and you're on the Waitlist, you are getting some services, but I didn't read a figure of what the average person on the Waitlist is receiving in services dollar-wise. Can you give me that?

MS. NIHAN: You are correct that individuals who are on the Waitlist are getting some services in the form of one-time modifications. Where we are having difficulty committing a full range of services for these clients will be in the area of

JOINT FISCAL COMMITTEE

February 12, 2016

comparing the projection of services for those on the Waitlist with the available budget in the Maintenance For Service Line. Once we take them off the Waitlist, we have to assure that there is available Maintenance money to provide them the services that they need. That is some of the flexibility that is being discussed around transfer of funds to make sure we're using the funds in that most efficient way.

REP. WEYLER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: I think one of the things that would help us, thinking people are pining away on the Waitlist, if we could know the average amount of money that is spent on those people on the Waitlist so we can assure some people who are calling us saying why is my son, daughter, et cetera, still on a Waitlist. We can say we understand that. We are still spending this much money on them. We are hoping to move them to the maintenance where it will be around 45,000. But I know it's not zero and I know we need to know that to talk to the people that call us.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chairman. Just following up on Representative Weyler's comments. The level of service that an individual is receiving of the 153, some minimum, some moderate, could you get us the level of service that they are receiving because when you say 153 on the Waitlist, the assumption is that in no way are they being helped at all but that's not true. Some help is being rendered and, indeed, I think it's important for this Committee to recognize that and we need to know that because it isn't a question of you've just taken 153 bodies and thrown them aside. There is something -- there is something being done and I would appreciate that. I think that information would be vital to this Committee. Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator Morse and then Senator Sanborn.

JOINT FISCAL COMMITTEE

February 12, 2016

SEN. PRESIDENT MORSE: Marilee, on Step 2, I mean, that's different from this report if that's where we're going. When we originally set up the MCO System, we were on the road all the time. We heard the public. We understood where they were going. Do you believe that the Department's done enough with these groups, like the nursing home groups, which involves County Government, and the disabled community to stand up Step 2 at this point?

MS. NIHAN: We've done a significant amount of work already, and we want to continue to be engaged with the providers and the clients who are going to be affected by the remainder of the build-out of that program. So there is definitely more dialogue to be had.

CHAIRMAN KURK: Follow-up.

SEN. PRESIDENT MORSE: What I'm hearing and just the DD community. Obviously, there's a piece of legislation in the Senate about nursing homes right now. But just the DD community, they don't believe that level of communication exists right now. I believe in the MCO system. I'm there. How it's delivered or I could debate, you know. Maybe the Region 10 system underneath a MCO system would work. But they're telling me the level of communication is not there. So if that means anything, I think we have work to do.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Again, ladies, thank you for allowing us to question you because we all know how much you actually do care; we do, but like you are equally frustrated. And with respect to the Chair, I'm having a hard time even considering it's going to take us an additional 18 months to get everyone off the Waitlist. What representations can you make? Obviously, for me, I'd like it by the time I'm done having lunch. The Chair would like to see something by the end of the biennium. What's a reasonable amount of time?

JOINT FISCAL COMMITTEE

February 12, 2016

As I understand, as Representative Weyler says, we have rules we need to work on, we have legislation and statute we need to change. We have all types of things that we are going to work on within this building; but, frankly, all of us and I know you two specifically are more concerned about when do we help them versus manage this? How long is it truly going to take us to make sure we are going to get everyone off the Waitlist, and we can dillydally with all of our legislative rules, which is important, but not nearly as important to me to making sure that people get the services they deserve.

MS. NIHAN: I want to assure you that we are going to take as many people off the Waitlist as soon as we possibly can. We have to be sure that we are doing that in a very responsible way, that we are not harming the rest of the individuals who are already getting services.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: I think our biggest frustration is we have a pile of money that we are not spending and haven't spent.

MS. NIHAN: Hm-hum.

SEN. SANBORN: And we have a pile of people who are getting services. It's hard for me to think that those who are getting services are going to be injured by a 30 or \$40 million pot of money that's languishing while people languish.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Marilee, how do the numbers compare right now to what we budgeted for?

MS. NIHAN: That's a good question. We budgeted -- at the time that we created the DD budget there were 112 individuals on the Waitlist. The budget for this Fiscal Year called for taking one-fourth of those clients off of the Waitlist every quarter

JOINT FISCAL COMMITTEE

February 12, 2016

until we got the Waitlist down to zero. We have not taken as many off of the Waitlist as the budget called for for a variety of reasons, and we've had additional clients come onto the Waitlist that we had not anticipated at the time of the budget.

One of the big reasons why we've not taken individuals off, some individuals, I don't want to say we haven't removed any, but we've not moved them as quickly as possible is we budgeted for these clients at an average of \$44,000. We are seeing service requests coming in that are higher than that, around 50 to \$60,000, and we're working through the appropriateness of those requests against the available budget.

CHAIRMAN KURK: So at this point do you anticipate having another large lapse?

MS. NIHAN: Do not. I do not anticipate having a large lapse this Fiscal Year. What I want to be able to do is to be able to use the available money to serve as many of those Waitlist and current clients as possible. What I need to do some more analysis on is to know how many clients the available budget right now will be able to serve versus those who are waiting for services.

CHAIRMAN KURK: Thank you. Further questions? There being none, Representative Weyler is recognized for a motion.

****** REP. WEYLER: Mr. Chairman, I move we accept the report, place it on file, and release in the usual manner. You need 23 copies by Monday.

CHAIRMAN KURK: Is there a second?

SEN. SANBORN: Second.

CHAIRMAN KURK: Discussion? There being none. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the report is accepted as proposed in the motion.

***** {MOTION ADOPTED}**

JOINT FISCAL COMMITTEE

February 12, 2016

CHAIRMAN KURK: Thank all of you for your work. This is not a happy occasion, but I think we at least bottomed out and it's all uphill from here. Thank you.

Our next Audit will be of the Unique College Investing Plan Annual Report.

Mr. Kane, we can hear these reports but not take action on them; is that correct?

MICHAEL KANE, Legislative Budget, Assistant Office of Legislative Budget Assistant: Sure. If you want you could accept and release the reports available to the public today.

CHAIRMAN KURK: Without a majority?

MR. KANE: I don't see a quorum requirement.

CHAIRMAN KURK: I thought any action the Committee took had to be by a quorum, by a majority?

MR. KANE: Yeah, you have five.

SEN. SANBORN: I have a 1 o'clock, about to have four.

CHAIRMAN KURK: Five is not majority of ten.

MR. KANE: I didn't realize you lost one.

REP. WEYLER: We'll appoint him.

MR. KANE: I can't vote. You can hear them today.

CHAIRMAN KURK: Correct. Any objection to hearing us with the minority of folks? Fine. Thank you. Please continue.

MR. SMITH: Just for the benefit of the Committee, I believe that these two reports at the December meeting there was an approval for release one available.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. KANE: The Unique Plan and 529, correct.

CHAIRMAN KURK: Thank you.

REP. WEYLER: Thank you for remembering that.

MR. SMITH: To present -- as you may know --

CHAIRMAN KURK: Have you identified yourselves for the record, Mr. Smith?

MR. SMITH: For the record, I'm Steve Smith, Director of Audits for the LBA, and here to present from PWC who's under contract with our office for these particular two plans is Rachel Bradley, and then the Trustee of the plans, our State Treasurer is here as well. So with that, I'll turn it over to Rachel.

RACHEL BRADLEY, Partner, Pricewaterhouse-Coopers: So I'll take us through the details and the results of the audit.

As Stephen mentioned, my name is Rachel Bradley. I'm a Partner with PWC, and I'm responsible for the audits of the Unique College Investment Plan and Fidelity Advisor 529 Plan. These two plans are both higher-education savings programs that are in place under Section 529 that help individuals save for the purpose of education -- of financing education expenses at a later date.

The Unique College Investing Plan is comprised of 36 portfolios. The Fidelity Advisor 529 Plan is comprised of 27 portfolios and each of those portfolios maintain its own books and records. So it has individual participants into a specific portfolio and we perform an audit on each portfolio as a stand-alone entity.

Each of the portfolios invest in underlying Fidelity mutual funds with the exception of the bank deposit portfolio and the 13 multi-firm portfolios that are part of the Unique College

JOINT FISCAL COMMITTEE

February 12, 2016

Investing Plan. Those portfolios invest in mutual funds that are advised by investment advisors other than Fidelity.

The audit -- the audits of these plans and portfolios were completed as of September 30th, 2015.

If you flip to Page 9 of our materials, it takes you through a summary of the way we approach the audits, and the first thing we do is we really look at the controls that are in place at Fidelity to make sure that the operations of the plans and their investment programs are operating the way we would expect them to be operating. And then when we are performing the financial audit statement itself, we focus primarily on a few areas.

First would be evaluation which I think is the most important and making sure that the investments of each portfolio are appropriately valued and appropriate in custody. We also focus in on the expenses that are being charged to the participants to make sure they're in accordance with the agreements in place and with the information that they were aware of when they signed up to join the 529 or to invest in the 529 Program. We also look at participant subscriptions and redemptions to make sure that that shareholder activity is appropriately reported.

If you flip to Page 10, it gives you our results which I'm happy to report that this year, again, we have unqualified opinions for both plans and that the financial statements appropriately reflect the assets and the financial results of the plans in the portfolios that we audited.

If we flip to Page 11, this starts required communications that we have. So the AICPA, which is the governing body over auditors, requires that we communicate certain information to those charged with governance and that is included in the following information. In interest of time, because I think we are running a little bit late today, I won't go through each of these in detail because I think that there's nothing in here that's kind of unique or unusual. So if there were something

JOINT FISCAL COMMITTEE

February 12, 2016

identified I would highlight that one particular area; but so you know at a high level there was no fraud, no disagreements with management, no adjustments, no unadjusted differences. But I think that the audits were completed successfully and appropriately.

CHAIRMAN KURK: I must say that is the nicest presentation of a clean audit, and I commend you on that and urge you to do it that way in the future.

MS. BRADLEY: Okay. I'll get the minutes and read it word for word next year, hopefully. Any questions for me or do you want to --

CHAIRMAN KURK: Mr. Dwyer.

WILLIAM DWYER, State Treasurer, Department of Treasury: Thank you, Mr. Chair. I'm aware that normally the Treasurer provides a very high overview of the college savings plans before the summary of the audit is presented. I thought, again, for sake of expediency, I'd ask Rachel to go ahead and present the summary.

As most all of you are aware, the College Savings Plan currently has just under \$14 billion in assets under management. Between these two plans the plans are administered by Fidelity Investments. And under the contracts for the two plans the Unique Plan, which is the plan sold directly to clients of Fidelity, is Fidelity's national brand in the promotion of college savings.

As part of the contract with Fidelity, the State also receives a share of the revenue. It's a 10-basis points of the assets on the actively managed funds, and then 5-basis points on the index funds.

I would -- I wanted to note, actually, this year that the State uses that share of revenue to fund two distinct scholarship plans for participating New Hampshire colleges and universities. One is a plan that allocates funds to restricted

JOINT FISCAL COMMITTEE

February 12, 2016

endowments for colleges that are in the Unique Endowment Allocation Plan, and then there's a second scholarship plan, the Unique Annual Allocation Plan that distributes scholarship funds directly to qualifying New Hampshire students attending those participating colleges.

What's noteworthy the Calendar Year is that from the inception of the Unique Plan, we will surpass \$100 million in total scholarship aid distributed as a result of this revenue-sharing arrangement between, again, allocations to restricted endowments, as well as direct scholarships paid to students. I want to be brief in my remarks so I'll leave it there and, certainly, I'm happy to answer any questions.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Can you quantify those amounts?

MR. DWYER: How the \$100 million is broken down, Representative Weyler?

REP. WEYLER: What did we achieve this year in dollar amounts?

MR. DWYER: For?

REP. WEYLER: For these endowment and scholarship funds?

MR. DWYER: For Fiscal 15, there was approximately \$12½ million of revenue generated. About 10 million of that went to the Endowment Allocation Program and the other two and a half million went to the Annual Allocation Program and, again, that's the one that provides direct scholarship aid to New Hampshire residents.

REP. WEYLER: I don't like the distribution but we'll talk about it later.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. DWYER: Thank you, Representative Weyler. I appreciate that question. The distribution is based on Administrative Rules, Csp 600 and 700.

REP. WEYLER: Thank you, Treasurer Dwyer.

CHAIRMAN KURK: Question. What is the total management fee for the individual participant in this program who pays the greatest management fee, not just the Fidelity fee, but all of the fees paid to the managers and sub-managers and sub-sub-managers?

MR. DWYER: Thank you, Mr. Chair. As Rachel noted, there is one specific portfolio within the Unique retail sold plan that's known as the multi-firm portfolios. These are funds where essentially Fidelity researches outside investment managers and selects specific funds of other non-Fidelity managers to put into a specific basket, if you will, within the Unique Plan.

The management fee on the multi-firm portfolios is the highest and its 45-basis points in total of assets under management. And as noted earlier, the State receives 10-basis points of that 45 and Fidelity receives the other 35-basis points.

CHAIRMAN KURK: Forty-five is roughly half a percent.

MR. DWYER: Correct.

CHAIRMAN KURK: So you're telling me as an investor in this fund, my children's college education, 99.5% -- 99.5-cents on every dollar is going into an investment and only one-half cent is going to all of the management fees, to Fidelity's, to the managers that they select beneath them, et cetera?

MR. DWYER: That is correct, Mr. Chair.

CHAIRMAN KURK: That's extraordinarily low and even beats TIAA-Cref.

JOINT FISCAL COMMITTEE

February 12, 2016

MR. DWYER: It is, and I would note that at the onset of the availability of multi-firm portfolios, the fees were significantly higher, and I think I've noted that in prior audit appearances. The industry is a competitive one and increasingly other State plans are growing in size and Fidelity has very -- has been very responsive in terms of responding to those competitive pressures. Fidelity is constantly looking for opportunities to lower the management fees in order to remain competitive in the industry.

CHAIRMAN KURK: Thank you. I'm just thinking what are we paying for the New Hampshire Retirement System to do all of its investments and might they be better off -- never mind.

MS. BRADLEY: I'm sure Fidelity would be happy to come and meet with you about that.

REP. WEYLER: And it's tax exempt.

CHAIRMAN KURK: Further questions? Thank you very much. It's my understanding that we have already approved these, released them for -- approved and released in the ordinary course so we don't have to take any action.

REP. WEYLER: And we have reviewed them.

CHAIRMAN KURK: So thank you. We appreciate it.

MS. BRADLEY: Thank you.

CHAIRMAN KURK: Hope for the same report next year.

MS. BRADLEY: I agree.

CHAIRMAN KURK: Mr. Kane tells me that it would be imprudent for us at this time to take up the other two audits where we don't have the power because there's no quorum to approve them and release them to the public, and it would be imprudent for us to hear them at this time. So we will not be taking up, and I

JOINT FISCAL COMMITTEE

February 12, 2016

apologize gentlemen, the Liquor Audit or -- what's the other one?

REP. WEYLER: The water --

CHAIRMAN KURK: DES Water Audit at this time. Is there any other business to come before us? I will announce the date of the next meeting which is February 18th, February one eight.

MR. KANE: March.

CHAIRMAN KURK: I'm sorry, March. That's a little too close. March 18th will be our next meeting. Anything else to come up, gentlemen? There being none, the meeting stands adjourned. Thank you.

(The Committee meeting adjourned at 1:02 p.m.)

JOINT FISCAL COMMITTEE

February 12, 2016

CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask
Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire
License No. 47

